SENATE—*Monday, December 21, 1987*

(Legislative day of Tuesday, December 15, 1987)

The Senate met at 4 p.m., on the expiration of the recess, and was called to order by the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Hear, O Israel: The Lord our God is one Lord: And thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might. And these words, which I command thee this day, shall be in thine heart: And thou shalt teach them diligently unto thy children, and shalt talk of them when thou sittest in thine house.—Deuteronomy 6:4–7.

Eternal Father in heaven, at this season of the year, we think of home and family. What beautiful words and what a blessed reality whether in memory or the present. We thank You for this glue of social order. We ask that Your special blessing may rest upon the home and family of each person who works in the Senate. Where there is alienation—bring reconciliation. Where there is illness—healing. Where there is sadness—joy. Where there is discouragement—hope. Where there is loneliness—love. Where there is financial difficulty—relief. Fill each home with grace and peace this week. Especially Heavenly Father do we pray for those who have worked such long and hard hours that they may be totally renewed and restored in the blessedness of Christmas. In the name of God's gift of love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STENNIS).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 21, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. BYRD. Mr. President, conferences have been going on now all through Saturday into the late, late evening hours, even to almost midnight, beginning on yesterday at 11 o'clock, going into the early evening, and continuing through this day. Most of the sticky items have been resolved in the spirit of compromise.

I anticipate that the House will be taking up one of the conference reports and getting it over to the Senate at a reasonably early hour. My conversations on yesterday led me to believe that we might receive the conference report on the reconciliation bill possibly by 5 o'clock today. My conversations with the Speaker today indicate that we are still on schedule, but whether or not we will get a conference report by 5, in my judgment, is somewhat questionable.

I simply say to my colleagues here on both sides of the aisle that we should be prepared to stay until the work is done. It may be midnight, it may be early tomorrow morning, and it may be earlier or later than either. The only thing I can say is let us just stay and be prepared to do our work, and when the conference reports come to the Senate, they will be called up and the Senate will work its will.

Whether or not the President will veto either of the two bills, the continuing resolution or the reconciliation bill, in the final analysis is not for me to say. He continues to threaten to do this. And I regret that. We all know that the President has the constitutional right, power, and duty to veto if in his judgment a bill should be vetoed. But we have heard all too many threats. It makes it difficult for any President to accommodate himself to developing circumstances that may not be foreseen at the time a veto threat is issued. We all know that the veto pen is there. It is always at the ready. The President can always exercise that right, that power, and that duty. And I regret that these veto threats continue to come because they make it hard for the President and the Congress to work out these thorny problems in the final analysis.

So having said that, I say that I do not know whether we will have to mount an effort to override a veto in the final analysis or not. I hope we will not. I think the people of this country are tired of the confrontation. They want to see us work together. And that is the spirit in which Democrats and Republicans on both sides of the Hill have been working over this weekend. It is very seldom that we have a Sunday session or Sunday committee meeting or Sunday conferences but they have been going on in the effort to complete our work so that the Government can continue to operate, and we can resolve these very, very difficult questions.

I say again to my colleagues I cannot say to you what the hour will be when we will be voting but I have confidence that we have good attendance. I hope that Senators will understand that we may not get out tonight. We may still be here. If the President vetos a bill, then that means we have to take another look at it.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the Republican leader's time may be reserved.

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

MORNING BUSINESS

The PRESIDING OFFICER (Mr. ROCKEFELLER). Under the previous order there will now be a period for the transaction of morning business for not to exceed 30 minutes with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

WILL A SUPERPOWER AGREEMENT TORPEDO OUR TRIDENT DETERRENT?

Mr. PROXMIRE. Mr. President, what leg of our nuclear triad carries the largest share of this country's deterrent? Is it our land-based leg—that is, the Minuteman and MX missile? Is it the sea-based leg—the submarines? Or is it the air leg? These are the bombers. The American nuclear deter-

rent today is overwhelmingly dominated in our submarines. In a story in the November 27 New York Times, Richard Halloran spells out exactly how dominant our Trident submarines have become in our nuclear defense. Our nuclear armed submarines carry 5,632 nuclear warheads. That compares with less then half as many: 2,130 warheads on U.S. land-based missiles. Our submarines also carry far more nuclear warheads than our bomber fleet.

The submarine leg of our triad has already become very costly. It will cost more in coming years. Halloran reports that the Congressional Research Service projects a 1992 Trident cost of $69.8 billion. This would make it our most costly weapons program ever and anywhere. Is it wise to spend so much of our military budget on only one of the three legs of the nuclear triad? Is it prudent to concentrate as much of our vital deterrent on submarines?

This Senator believes the answer is yes, emphatically yes. Here's why: Submarines are by far the most secure part of our deterrent. They are exceedingly hard to track. This is because they are moving and moving rapidly under the ocean. They are quiet. They are invisible. As the Navy phases the new Trident submarines into the fleet, the advantages offered by our submarine fleet will become even more conspicuous. The Navy keeps the Trident at sea for 70 days, on a normal patrol. When it returns, as Halloran reports, a fresh crew replaces the returning crew. Maintenance men repair machinery. They replace some missiles. This takes 18 working days. Then the new crew will run through its drills. And the Trident goes back to sea. It spends two-thirds of its time in operations at sea. This compares with about half for older submarines. Each Trident has two separate crews assigned. With its 6,000 mile range, it can strike Soviet targets at any time from the minute it leaves port. In the next 70 days it can be anywhere in the Earth's vast oceans. It can be under the ice at either pole. It can be in the Atlantic, Pacific, Indian Ocean, or elsewhere. It will always be moving—silently, swiftly. Over time each of these submarines has the destructive capability to destroy every major city in the Soviet Union. I am not talking about the U.S. submarines fleet as a whole. I am saying that each individual Trident submarine has the astonishing deterrent power.

Now, Mr. President, would not the ratification of the widely discussed treaty reducing the number of warheads of both superpowers to less than 5,000 seriously compromise this remarkable deterrent? Keep in mind that we already—today—carry 5,632 warheads on submarines. The Triad principle is based on the reasonable assumption that the substantial nuclear arming of each of the three legs—land, sea, and air provides an insured protection against a sudden, unexpected Soviet technological breakthrough. The Soviets conceivably could find a way to track and destroy our submarine fleet, for instance. So it would be unwise to reduce any of the three legs below the roughly 20 percent of the total number of warheads now represented by the land-based missiles. If the United States pursues this deterrent strategy and agrees to an overall nuclear warheads reduction of 50 percent, then we would sharply reduce the number of nuclear warheads carried by a oncoming Trident fleet.

Can we do this wisely? Yes. The wise way to do this would be to carry the same number of Trident submarines in our arsenal as we now plan to carry but design or redesign each of them to carry a smaller number of warheads. This would provide a more assured deterrent than withdrawing half of our submarine fleet. The number of U.S. submarines at sea at all times is critical to the credibility of our deterrent. We should keep enough American submarines at sea to make it virtually impossible for the Soviets to track and promptly eliminate each and every one.

Our Trident submarines deterrent should not block agreement to a treaty sharply reducing warheads of both superpowers. The nature of this deterrent does, however, require that we maintain the credibility of this most critical leg of our deterrent by maintaining the planned number of our Trident fleet. If we ratify the treaty calling for a 50-percent overall nuclear warheads reduction we can and should reduce the number of warheads per Trident, and certainly not the number of Trident submarines.

I ask unanimous consent that the article to which I referred in the New York Times by Richard Halloran be printed at this point in the RECORD.

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

[From the New York Times, Nov. 27, 1987]

SUBMARINES NOW DOMINATE U.S. NUCLEAR FORCES

(By Richard Halloran)

BANGOR, WASH.—Since President Reagan started to modernize the nation's long-range nuclear forces six years ago, the balance of American striking power has shifted, almost unnoticed, from land to sea.

Today, nearly half the nuclear warheads in long-range weapons are carried aboard submarines, an increase of one-third since 1981. The rest are in land-based missiles or bombs and cruise missiles carried by bombers.

The shift has taken place as eight Trident submarines have joined the fleet, each with 24 missiles armed with 8 warheads. The newest boat, Nevada, was loaded with missiles in August.

DELAYS IN MX PROGRAM

In coming years, the ratio will favor missiles on submarines even more. The Navy is constructing six more Tridents and plans a total of 20, while the Air Force has been delayed in deploying MX missiles because guidance systems have not been delivered on time. There is also little support in Congress for more land-based missiles.

The Trident program could be slowed by budget cuts or an arms agreement. The President is to meet with Mikhail S. Gorbachev, the Soviet leader, in Washington on Dec. 7 to sign an agreement limiting medium-range missiles and to begin looking for reductions in long-range weapons.

The emphasis on submarine-based missiles has not been articulated by the Reagan Administration, which has concentrated on the Air Force's MX missile and B-1 bomber, but has evolved from other strategic, political and technical developments.

VULNERABILITY ISSUE

Strategically, students of nuclear warfare say, improved accuracy in Soviet land-based missiles, the bulk of the Soviet nuclear force, has put American land-based missiles and bombers at risk from attack.

But Navy officers argue that submarines can hide in the sea. Vice Adm. Bruce DeMars, the Navy's chief submariner, contends that submarines have become "the pre-eminent leg of the strategic deterrence triad" of land, air and sea based missiles.

Politically, as William M. Arkin of the Institute of Policy Studies in Washington, wrote recently, the Navy's nuclear arms "so far have not been subjected to the same public scrutiny which has been focused on land-based nuclear forces" like the MX.

Technically, excess cost, delays and poor workmanship that marked the early construction of Trident submarines, which began in the Ford Administration, have been corrected, Navy officers said, thus damping Congressional criticism.

Altogether, Navy missile submarines today carry 5,632 nuclear warheads, as against 2,140 warheads atop the Air Force's Minuteman and MX missiles; the rest are aboard bombers.

But Trident has been costly. A report by Congressional Research Service said that, with spending on the Trident program to reach $69.8 billion by 1992, it has become "the most expensive U.S. weapons program."

But Naval officers say Trident consumes only 10 percent of the Navy's budget and 25 percent of the cost of long-range nuclear forces. They asserted the extra cost was worth it because undetected submarines deterred attack.

If the United States and the Soviet Union agree to limit long-range nuclear arms, Trident would undoubtedly be affected since the boats carry the greater number of warheads.

The Trident I missiles have a range of 5,000 miles, and the warheads could hit targets in the Soviet Union as soon as the submarine leaves port here.

In contrast, older submarines must steam some distance to get within range. The Navy has 28 Poseidon submarines with 16 missiles each. Of those, 12 have Trident I missiles and the remainder have Poseidon missiles with a range of 3,600 miles. Poseidon submarines are based at Charleston, S.C., and Holy Loch, Scotland.

All Polaris boats, the first American ballistic missile submarines, have been retired.

The Navy also has 100 attack submarines armed mainly with torpedoes.

The next Trident submarine, Tennessee, is to be delivered next year and will be the first to carry Trident II missiles with a range of 6,000 miles, 8 warheads and the ability to destroy fortified Soviet targets. Tennessee and the next nine boats are to be based at Kings Bay, GA.

All Trident submarines are currently based here. Every 12 or 13 days, a submarine returns from a patrol in the Pacific to trigger an urgent but orchestrated effort to get her back to sea.

A fresh crew replaces the returning crew, provisions for 70 days are stowed aboard, machinery is repaired and some missiles are exchanged. After drills, the submarine resumes patrol.

Trident submarines spend two-thirds of their service at sea, as against half for older missile-carrying submarines and one-third for most surface vessels.

WHITE KNUCKLES SITUATION

Each Trident submarine has two crews of 170 officers, chief petty officers and sailors. Named for Navy colors, the Blue crew prepares for sea while the Gold crew is on patrol.

The nuclear-powered submarine could stay at sea longer than the 70 days of a normal patrol. But that would put a burden on the crew in separation from families and friends and in fatigue.

The Blue crew starts getting ready the day the Gold crew leaves. With each patrol, about 20 percent of a crew is new because sailors leave for shore duty, to attend school or to leave the Navy.

Most training takes places in a building in which a Trident boat has, in effect, been broken apart. "We've tried to make this place as close to a ship as possible," said an officer. "We can put them in a high-stress, white knuckles situation right up to catastrophic emergencies."

While the crew trains, technicians prepared to service a submarine as soon as she returns. Much maintenance is planned: if a pump is designed to work three years, it will be replaced at 2½. "The whole idea is to pull it off before it fails," said an officer.

A key to swift turnarounds, submariners said, is the design. In older submarines with small hatches, machinery had to be disassembled and lifted out for repair; it could not be tested until after reassembly in the submarine. On the Tridents, however, machinery can be hoisted through a six-foot-square opening without disassembly. A new or rebuilt piece of equipment, already tested, is lowered and hooked up.

Repairs and replenishment usually takes 18 days, without weekends off. The captain then runs drills while the submarine is tied up and finally drills in Puget Sound before slipping out to sea.

EFFECTS OF CORPORATE TAKEOVERS

Mr. SANFORD. Mr. President, I rise to commend to my colleagues an article which appreared in this morning's Washington Post. What I find particularly compelling is that the article reflects an interview with the dean of the business school of George Mason University—a school widely known for its laissez faire economic philosophy—yet this dean, Coleman Raphael, emerges as an outspoken critic of hostile takeovers. Mr. Raphael's opinions result from the damage he has watched occur at one of the Washington area's most competitive companies—Atlantic Research Corp. ARC has produced a wide variety of products, ranging from rocket propulsion systems used in Stinger missiles, to electronic and computer security systems, and has consistently maintained a very impressive 20 percent annual return on equity for its shareholder.

In describing the takeover "game," Dean Raphael notes that it is "bad for the country," "a game marked by a short-sighted, bottom-line mentality, fed by vulture speculators, imposing astronomical costs on management resources and causing needless psychic distress and turmoil for workers."

Raphael described the devastation the takeover has had on employee morale, and his comments echo those we heard time and time again this year in hearings for the Banking Committee. Raphael comments that the costs, in terms of turmoil and loss of productivity was enormous as key managers began considering jumping ship. The United States cannot afford to lose its research capacity, but such loss time and again is the result of hostile takeovers.

It is exactly this type of devastation, loss of employee morale, and a new focus on the short-term bottom line that many of us on the Banking Committee believe must be stopped. I urge my colleagues to keep stories like these in mind when the Senate considers legislation to amend our tender offer laws. Unfortunately, it is companies like ARC, that appears to be well-run, with strong research and long-term growth strategies and good returns on equities, that are too often the target for raiders who are interested only in short-term dollars.

I ask unanimous consent to have the full text of this Washington Post article printed in the RECORD.

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

[From the Washington Post, Dec. 21, 1987]

ATLANTIC RESEARCH CHAIRMAN SHAKEN, BITTER AFTER TAKEOVER FIGHT

(By Michael Isikoff)

The letter came to Coleman Raphael's home two weeks ago, a heart-wrenching lament from a longtime employee of Atlantic Research Corp. A few days earlier, ARC, the rocket company that Raphael helped build into one of the glittering success stories of Washington business, had learned it soon would be swallowed up by Sequa Corp., a little-known but cash-rich conglomerate in New York.

Suddenly, a sense of gloom had swept through ARC's headquarters in Alexandria. Many of the firm's 3,800 employes were anxious, and despite official assurances from the soon-to-be new owners, worried about their futures.

"Yesterday, it was almost silent at Atlantic Research," began the employe's letter to Raphael, the chairman of ARC, its former chief executive and now dean of the school of business administration at George Mason University. "Employes tried to avoid the halls, the cafeteria, each other. What little small talk there was centered on laconic survival jokes.

"The sudden purchase of our independence dazes me and most of my colleagues. Our feeling of loss is genuine, because you created a unique constellation within this company that we may well never experience and enjoy again. Where else in American business could so many good ideas, so spontaneously, so regularly come from the ranks?"

As he read the letter to a visitor in his office on the GMU campus in Fairfax last week, Raphael could not help but be moved one more time. The letter, he emphasized, underscored everything wrong with the fevered takeover game played by corporations in recent years and which he had just lived through. It is a game, Raphael believes, that is "bad for the country," a game marked by a short-sighted, bottom-line mentality, fed by "vulture" speculators, imposing astronomical costs on management resources and causing needless "psychic distress" and turmoil for workers.

All that was seen in the more than year-long battle for control of Atlantic Research, Raphael said. The fees ARC paid to its investment bankers (First Boston Corp.), its lawyers (Skadden, Arps, Slate, Meagher & Flom) and others retained to fight a takeover came to an estimated $3 million, according to one company estimate. The costs, in terms of turmoil and loss of productivity among employes, was enormous, Raphael said.

"What is the dollar value of that psychic distress?" he asked. "People stop working, nothing is getting done. . . . People are sitting around wondering what is going to happen next."

The end result, he said, is only more uncertainty—new owners with an unknown agenda. "You put all these things together . . . and you have to ask, is it worth it?" he said.

Not that Raphael doesn't benefit financially. He became the firm's largest individual shareholder in the 1970s, buying $160,000 worth of stock with borrowed funds. Last week, he reluctantly tendered his remaining 326,645 shares at Sequa's $31-a-share asking price, netting him a pretax profit of about $10 million.

But Raphael, 62 believes there are larger issues at stake, enough to turn him into an outspoken critic of hostile takeovers. It is not an unheard-of transformation—many other top executives who have gone through bruising takeover fights have come away with similar views. But it is an unusual position for a business school dean at a university known as a national bastion of Laissez faire economics.

"I think we were one of the great companies in this country," Raphael said. "We always felt we knew how to run this company better than anybody. . . . We were smart."

Raphael's role at ARC will officially end at midnight tonight, when Sequa's tender offer expires, for all practical purposes sealing the $284 million deal. Within the next couple of days, he and the rest of the management team that has run the company for the past 12 years—William H. Borten, ARC's president and chief executive officer; W. Gerald Hamm, its executive vice president; and others—will lose their titles and surrender control to Sequa, formerly called

the Sun Chemical Corp., a $1.2 billion firm with interests in gas turbines, jet engines, military electronics and specialty chemicals.

Last week, Sequa President Robert E. Davis visited with ARC managers and gave renewed pledges that the new owners have no plans to sell parts of the company or lay off employes. Davis indicated that Sequa plans to keep the company as a separate subsidiary, with existing operating management, under the Atlantic Research name.

He gave the right kind of assurances," said Borten, who expects to stay on. "What he said was, 'if it ain't broke, they're not going to try to fix it."

Atlantic Research was anything but broke when it first became a takeover target more than a year ago. Since 1976, when Raphael, Borten, Hamm and seven others acquired the Atlantic Research division of the old Susquehanna Corp. in a leveraged buyout, the firm has blossomed into one of the Washington area's largest and most profitable defense contractors. From less than $30 million in sales 12 years ago, it has grown exponentially virtually every year, posting $263.2 million in revenue in 1986 with profits of $14.7 million.

At the heart of the company's business, accounting for about half its sales, is a rocket propulsion division that is ranked among the tops in the field, manufacturing solid rocket motors for such key Pentagon weapons systems as the Trident nuclear and Tomahawk cruise missiles and the Army's multiple launch rocket system. When Afghan guerrillas shoot down Soviet helicopters, they use handheld Stinger missiles propelled by motors produced at Atlantic Research's rocket facility in Gainesville, Va.

The company has long since diversified into other areas—most notably the marketing of Tempest electronic and computer security systems used to protect sensitive government data. Raphael, who stepped down as CEO two years ago, notes that ARC consistently managed to produce a greater than 20 percent annual return on equity for its shareholders.

But, Raphael said last week, ARC always believed in something more than maximizing short-term profits for its shareholders.

The company gave annual bonuses averaging $600 to its employes and tried to create an informal atmosphere in which workers' views were not only listened to, but actively solicited, he said. It walked away from foreign deals in the Dominican Republic, the Philippines and other countries when strange "off the book" commissions or payoffs were requested. It prided itself on the quality of its work and on never getting tagged in the defense contractor scandals of several years ago.

"You can always give your shareholders more by squeezing your customers, but we said no, we're not going to do that," Raphael said. "And in the long run, if employes are happy and feel they have security . . . it will reflect in better work and higher productivity and the stock goes up and everybody will be happy."

Such was the case, Raphael believes, at Atlantic Research when, late last year, Clabir Corp. of Greenwich, Conn., launched a hostile takeover bid proposing a $36-a-share package of securities and cash that was widely derided by financial analysts. Suddenly, a new group of players turned up on the scene—Wall Street arbitrageurs who began buying up blocks of ARC stock and then swamping Raphael and other board members with calls pressuring them to agree to sell the company.

"You had a major transfer of stock from your loyal, long-term shareholders to . . . people who have no interest in what's going to happen to the company beyond next week, who are in it for the quick kill," he said.

Of all the aspects of the ARC fight, the pressure from the arbitrageurs was the most distasteful to its chairman. Starting with the Clabir bid last year and escalating when Sequa showed up on the scene this fall, Raphael says he was peppered with calls from faceless arbs, badgering him about his plans and hounding him with implied threats of lawsuits if he didn't do "what's best for the shareholders."

Raphael said, employe moral began to suffer, productivity fell off and key managers began considering jumping ship. On top of the burgeoning fees being paid to the investment bankers and lawyers who are figuring out how to fend off the raiders, a new cost was imposed—handsome severance agreements for about 50 top and middle managers to keep them from bailing out.

"You suddenly realize that key people who felt they had security, the people who are running your company, are looking for jobs elsewhere," he said.

ARC might have been able to weather all of this had it not been for the one factor that nobody counted on—the collapse of the stock market on Oct. 19. ARC had initially welcomed Sequa as a minority investor when the New York company bought out Clabir's 12.3 percent stake in the firm. But when the market dropped, ARC stock took a beating, dropping from the mid-20s to below $19 at one point (compared with more than $30 a share when the Clabir threat was active).

Sequa moved in for all the kill, first with a $30-a-share offer. Most analysts believed ARC was worth at least $35 a share, but with the newly depressed mood on Wall Street, a "white knight" could not be found to counter the Sequa bid. Some 40 firms were contacted, including many major defense contractors, but there were no takers. ARC was left with no choice but to negotiate to get another $1 a share out of Sequa.

"If you had asked me the day before [Black Monday], would I have sold my stock for $35 a share, I would have said, no way," Raphael said. "I would have said it was worth somewhere between $35 and $40. . . .

"I was wrong. The stock is not determined by what it's worth but by the perception of people in the market who are both a lot smarter and a lot dumber than you are," he said.

As he reflected on his experiences last week, Raphael said he is moving on the other goals—primarily, attempting to turn George Mason into one of the nation's best business schools. He also owns another company, Night Owl, that does between $2 million to $3 million in business a year supplying burglar alarms to Peoples Drug and other local stores. He also is on the board of Envipco, a McLean environmental firm.

And he still will be watching, purely as an onlooker, at what happens tro ARC. It may be, he said, that all the employees will keep their jobs and continue to thrive. It may be, he said, that Sequa will "turn out to be even smarter and better managers of ARC than we were."

However, he added, "I don't think so."

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

Mr. SANFORD. I yield.

Mr. PROXMIRE. Mr. President, I commend my good friend, the Senator from North Carolina. He has been a tower of strength in opposing these hostile takeovers, the damaging effect they have. We should have hostile takeovers at times, but we certainly have exceeded all bounds of prudence.

As he points out, it is something that again and again has taken jobs from hard-working Americans, has damaged our competitiveness, and, in the long run, will have a serious adverse effect on our economy. It has loaded up our corporations with debt as never before, so that they will be very vulnerable in the next recession.

I am glad the Senator referred to the legislation pending in the Banking Committee. We expect to bring it to the floor in the near future, and I hope earnestly that our colleagues will study that legislation and advance it, because I think it is very important, if we are going to keep our economy from being extraordinarily vulnerable in the next recession.

Mr. SANFORD. Mr. President, the distinguished chairman is exactly right. I am delighted to be working with the distinguished chairman in drawing up the kind of legislation that I believe will put us back on a steady course of corporate management and get away from what has turned out in the last decade to be an extremely devastating enterprise. I look forward to working with the chairman.

MISSISSIPPI GRIDIRON GREATS

Mr. COCHRAN. Mr. President, I rise today to commend three outstanding young men from my State who have been honored for conspicuous accomplishments in the National Football League.

Archie Manning, who graduated from the University of Mississippi and is from Drew, MS, was honored by the New Orleans Saints recently in ceremonies at halftime in one of the games in the Superdome. They have in New Orleans the Wall of Fame, a new way to honor those who have played for the New Orleans Saints and who should be remembered for their wonderful accomplishments for that team. Archie Manning is one of the first to be so honored. I congratulate him.

Walter Payton, from Columbia, MS, last Sunday was honored in pregame ceremonies in Chicago for his accomplishments as a running back for the Chicago Bears. He not only is a good football player, as everybody knows, but also is an outstanding individual and a good friend of mine.

Also, yesterday, we had a new player from Mississippi, Jerry Rice, who set two National Football League pass reception records, playing for the San Francisco 49'ers. He set a record for the number of touchdown passes caught in one season—20—when he

caught 2 touchdown passes in the game against the Atlanta Falcons; and he set the record for the number of consecutive games for a player catching a touchdown pass—12.

For these wonderful accomplishments by a young man who is just in his third year in the National Football League, I congratulate him and tell him that I know that everybody in Crawford, MS, today is very proud of him for the way he is representing not only Mississippi Valley State University, where he played collegiate football, but also everyone throughout Mississippi.

Mr. President, I ask unanimous consent that the article in the Washington Post describing the record set by Jerry Rice be printed in the RECORD.

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

[From the Washington Post, Dec. 21, 1987]

RICE BREAKS RECORDS, 49ERS WIN

SAN FRANCISCO, Dec. 20.—Wide receiver Jerry Rice kept his new NFL records in perspective today following San Francisco's 35-7 triumph over the Atlanta Falcons.

"The most important thing to me is we won," Rice said. "Atlanta was a good team and we needed to win."

The victory ran San Francisco's season record to 12-2 and kept the New Orleans Saints (11-3) a game behind in the race for the NFC West title. Atlanta dropped to 3-11.

Rice caught a 20-yard touchdown strike from quarterback Steve Young in the third quarter to set two NFL marks and touch off a spurt of three touchdowns within 18 seconds. The touchdown reception was Rice's 19th of the season, eclipsing the mark of 18 set by Miami's Mark Clayton in 1984. He also caught a touchdown pass in his 12th straight game, breaking the mark of 11 set by both Elroy Hirsch and Buddy Dial.

Rice scored three times for the fourth time in five games.

"I think it [the record-setting performance] is fantastic," 49ers center Randy Cross said. "But we'd get more excited if he was more excited. He has so much talent and just seems to take things in stride."

Rice was held to but one reception in the first half.

"He didn't get many balls in the first half, but he's relentless," Young said.

"He's always working hard, whether its the first quarter, second quarter or second half. Jerry was patient and worked hard to get the ball in the second half."

Rice opened the scoring on a five-yard reverse for a 7-0 lead. His record-setting 20-yard third-quarter pass from Young put the 49ers ahead, 14-0.

Sylvester Stamps took Ray Wersching's ensuing kick on his 3, cut to the sidelines and outraced the 49ers 97 yards for the score to make it 14-7. Joe Cribbs then returned the Falcon's kickoff 92 yards for a 21-7 lead. It was the third set of back-to-back kickoff returns for touchdowns in NFL history.

Young, starting in place of injured Joe Montana, gave the 49ers a 28-7 lead with a 29-yard scramble touchdown with 12:11 left and Young threw a one-yard touchdown pass to Rice with 5:13 left.

San Francisco's defense ran its scoreless streak to nine quarters, intercepted four passes and had four sacks. The 49ers also blocked a field goal.

Young completed 13 of 30 for 216 yards and two touchdowns and gained another 83 yards on six carries and scored one rushing touchdown.

Chris Miller, starting his first game, completed 13 of 36 passes for 186 yards and four interceptions.

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

Mr. COCHRAN. I yield.

Mr. PROXMIRE. Mr. President, I congratulate the Senator from Mississippi on his statement. There is no question about it: Mississippi is producing first-class football players—and, I might also say first-class Senators in every respect.

All of us honor, of course, the marvelous senior Senator from Mississippi on our side. Mr. STENNIS, who has done a superb job for many years, and the fine junior Senator, with whom I serve on the Appropriations Committee.

Mr. COCHRAN. I thank the distinguished Senator from Wisconsin for his very kind remarks.

The PRESIDING OFFICER. The Senator from Nevada.

THE BUDGET RECONCILIATION

Mr. REID. Mr. President, it is with a sense of revulsion and shame that I rise today to speak on the budget reconciliation legislation that shortly will be before us, revulsion at what can only be described as oppression and colonialism, directed at the people of my State by 49 other States who are supposed to be our allies in a political union, shame because the sad truth is that this legislation has been subverted into becoming a vehicle for the grossest kind of political chicanery.

Under the guise of cutting Government spending, this bill is being used to arbitrarily select Nevada as the Nation's first permanent high level nuclear waste repository, in violation of the principles of our national nuclear waste policy and against the will of the vast majority of Nevadans and I believe the vast majority of the people of this country. The repulsive and mendacious political backstabbing represented by the deal cut against the people of Nevada should bring a blush of shame to the face of every Member of Congress who has supported this nuclear waste legislation.

When certain States began to rely on commercial nuclear power several decades ago, it was obvious that two major hurdles had to be overcome if nuclear power was ever to provide a significant portion of the Nation's power. They were the need for absolute safety and the question of what to do with the radioactive waste produced by the plants. Given Three Mile Island and Chernobyl the question is at the least still open in the public's mind as to whether or not nuclear power is safe.

Disposal of radioactive waste was the industry's second major problem. Early on, many thought that reprocessing was the answer. Reprocessing, it was argued, would turn nuclear waste into a form where more energy could be obtained from the spent fuel. It sounded like the perfect solution.

When the public discovered, however, that one of the products of reprocessing was plutonium—the most poisonous substance known to mankind and the stuff of nuclear weapons—it became a considerably less attractive alternative. Combined with the cost ineffectiveness of the procedure, the problems caused by the unneeded and dangerous production of plutonium killed support for reprocessing.

Attention then turned to the idea of a storage system using a monitored retrievable storage facility to initially cool the waste and an underground storage site for permanent storage of high level nuclear waste.

The 1982 Nuclear Waste Policy Act was the culmination of efforts by 12 congressional committees to develop a scientific and fair process for determining the safest site for a permament nuclear waste repository. Certainly, no State wanted the poison, but at least the act was an attempt to assure the people of the several States that a site would be fairly chosen. Apparently, it was too fair.

The ink was not even dry on the act before its principles were being twisted by the Department of Energy in the name of politics. The gross excesses and illegal conduct of the Department of Energy finally led to the legislative efforts over the last couple of years to get the site selection process back on track, back on a scientific track, not a political track.

Beginning this year the story takes a new and ugly turn. Under the guise of correcting the site selection process, the Senate Energy Committee reported on legislation that used a new set of biased criteria to target Nevada as the site for the permanent nuclear waste dump. When I made it known that Nevada would fight, backroom deals were cut to assure its passage.

In order to obtain support a second underground site in the Eastern States was eliminated even though most of the nuclear waste is produced in the East and none is produced in Nevada. In addition promises were made to Members of Congress that their States would not be chosen for the monitored retrievable storage facility. By the time we came to a showdown on the Senate floor, only 33 hardy souls voted with me in opposition to this bill, which the press and others months ago tagged "The screw Nevada bill."

Nevada still hoped that there might be a chance that we could turn away

from the direction that this legislation was taking and return to a fair and scientific site selection process. After all, the House Interior Committee had reported out a bill that would set up a mechanism to review the DOE's misconduct and provide time to get the siting process back on track. Perhaps, we hoped, the House would be responsive to concepts like decency, honor, and the bonds of comity which supposedly bind our Nation. It was not to be.

If you think things were bad in the Senate let us look at the House. In conference with the Senate on reconciliation, the leadership of the House Interior and Energy and Commerce Committees abandoned all pretense of a fair approach and fought like maddened hounds to see who could be first to single out Nevada for the permanent repository. In one wire story, House negotiators admit that they dropped the facade of basing their decision on good public policy and said, "as long as we're making decisions on a political basis, let's get my State out and cut our losses."

In a day when that kind of legislative lynch mob can exist, it is little wonder that surveys show that the public has little respect for or confidence in Members of Congress?

As one Nevada editorial put it, "In the game of political tag on the nuclear waste issue—Nevada is it!" The majority may have won this game, but not by fair, or decent or honorable means. Any man or woman in either body who has voted to do to my State what is proposed in this legislation, must live with the knowledge that on the alter of expediency they have sacrificed national morality to an extent not seen in this Nation since the ugly excesses of the McCarthy era.

Mr. President, some day our legislative descendents will hang their heads with as much shame and view the actions proposed with as much uncomprehension as we now look back on those witch hunts of the McCarthy era. How could they have done it? They will ask; how could they have been so blind?

History teaches us that there are three ways government can rule—they can rule by winning over the minds of their people by the rightfulness of their ideals; they can rule by winning over the people's heart through the strength of their values, or through the exercise of naked brute force. What we have seen the last few weeks is neither idealistic nor moral, but it is an example of raw power.

To support this legislation is to vote to set a precedent, a precedent that the membership of this body will live to rue. To support this legislation is to support the exercise of raw political power without even the veneer of fairness or objectivity. Raw political power without any consideration for the public health and safety of the State of Nevada or really of the people of this Nation when transportation is added into the quotient. What is proposed is an act of naked and unprovoked aggression by the people of several States against a State which is smaller and which has less power, the State of Nevada. No other justification exists, and the judgment of history in the end always rejects such conduct.

Legislative tyranny may be quieter, but tyranny it remains. I would remind this body that our Constitution was written, and this body exists, precisely to protect our people against the tyranny of the majority which we see before us today.

This Nation was founded with one underlying principle. That ideal so foreign to the petty princelings of Europe and the despots of Asia was that right was not based on might and that people and nations are protected by certain enduring truths. It saddens me to see the beauty of our ideal ravaged by the exercise of power without principle. It saddens and disturbs me.

When Haile Salassee of Ethiopia spoke to the League of Nations, he warned that his country would be but the first in a series of victims of aggressive acts if the world did not respond to his pleas for help. The world ignored his warning and Salassee was right—he was only the first in a series of aggressive acts by the fascist governments of Germany and Italy. Today I speak to you on behalf of another small State which has been the victim of aggression. Let us hope other States do not have to experience what Nevada has experienced.

We cannot win this vote when it takes place, but let the evil perpetrated upon us serve some good. Let it serve as a warning to every small State that when the principles are abandoned which have guided us for these 200 years past, then eventually all must suffer. If we can return to those principles of fairness, comity, and the rule of law, then the struggle we have waged will not have been in vain, and the Congress will reclaim its rightful position as protector of each and every Americans' right to be treated fairly under the law.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, how much time remains in morning business?

The PRESIDING OFFICER. There is 8 minutes and 25 seconds.

Mr. BYRD. Mr. President, I ask unanimous consent that that time be extended to 5 o'clock p.m. today.

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

Mr. BYRD. And that Senators may continue to speak therein for not to exceed 5 minutes.

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

Mr. BYRD. 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.

The PRESIDING OFFICER. The acting Republican leader.

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.

RETIREMENT OF CHARLES G. HARDY

Mr. SIMPSON. Mr. President, next month the Senate will lose through retirement a very valuable and respected employee whom all of us know, who has served the Senate with great dedication for more than 20 years. Before the Senate reconvenes for the 2d session of the 100th Congress, Charlie Hardy will begin a well-deserved retirement. We see him daily in our lives here, always very friendly and very courteous and very kind to us. He is an employee of the Sergeant at Arms' Office and has truly been a fixture in this institution.

He came to the Senate on January 3, 1967. My father left the Senate that year and I remember him telling me about this young man and he will now complete 21 years on the job by his actual retirement date next month. Before coming to work for the Senate, Charlie worked for 22 years for Royal Typewriter Co., an organization that did a great deal of business with the Senate in the days of the old secretarial pools and prior to the advent of computers and word processors and all that jazzy stuff that we use right now in great excess.

From his post near the floor, Charlie has always been available to perform very kind services to us that mean so much, especially in these times of night sessions or as we get into these type of crushes. As we are pressed for time in the hectic pace of the legislative business, he is unfailingly cheerful and his optimistic outlook has brightened many gloomy dispositions in this place.

So he has become a real friend in my 9 years here, as he has to all of us who have come to know him in these last years. He will surely be missed, and I want to join with all of my colleagues in thanking him for his admirable dedication and his very much appreciated good cheer. I wish for him and his family all the best as he leaves us to spend more time with his friends and family. I know he is looking forward to that, having that greater opportunity with his children and grandchildren, and his family will certainly

be blessed by his additional presence among them.

He never fails to ask me about my father, who is now 90 years old and whom I shall see very shortly, I hope. Yet he lost his own father this year and was appreciative of the sympathy that was extended to him by the Members of this body.

So, to Charlie, God bless you. I hope you will come back and see us from time to time. I thank you, Mr. President.

The PRESIDING OFFICER. The Republican leader.

BEST WISHES TO MR. HARDY

Mr. DOLE. Mr. President, first let me thank the distinguished Senator, Senator SIMPSON, for that well-deserved tribute. I think all of us who know Mr. Hardy can attest to the statement made by Senator SIMPSON: A man of unfailing good cheer, a man of deep religious faith, and a friend of everyone in this Senate. We all wish him the best as he leaves the U.S. Senate. I am certain wherever he goes, whatever he does, he will have a positive impact on whomever he may touch in the process.

THE PRESIDENT WILL KEEP HIS PART OF THE BARGAIN

Mr. DOLE. Mr. President, on another matter let me indicate that Secretary Baker, and I think maybe the chief of staff of the White House, our former colleague, Howard Baker, will be coming to the Hill soon and we hope to have an opportunity to visit with them about the two remaining matters, the reconciliation bill and the continuing resolution, and maybe have some determination what is acceptable to the President. From that we may learn when we will be able to leave this place. Soon, I hope, and soon everyone else hopes. But I would just say this. I think the President certainly is willing to keep the bargain he made with the leadership and the Congress, Democrats and Republicans, and I think he might even be willing to bend a bit, but I do not believe we can ask the President, who in good faith has kept his end of the bargain, to now permit a number of things to crop up in either the reconciliation bill or the continuing resolution, which were not part of the agreement. The President understands the process quite well and he understands that Congress, maybe for good reasons at the last minute, since the bill is a $606-billion bill, might think the President would have to accept a few things because the bill is that large and that important and it is near Christmas and everything else. But I can tell you the President told us this morning that he is willing to live by the agreement but anything else he will veto. He did not say it in any hostile manner, any threatening manner, he just said it as a matter of fact. He made an agreement with the leadership, the Democratic and Republican leadership in the House and in the Senate, and he wants to abide by that agreement.

So I would hope we can have some information or some word from the representatives of the President in the next few minutes and that we might be able to leave here this evening at a reasonable hour. If not, hopefully before Friday of this week.

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. DECONCINI. 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. DECONCINI. Mr. President, what is the order of business?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. DECONCINI. I thank the Chair.

NOMINATION OF ANTHONY M. KENNEDY TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

Mr. DECONCINI. Mr. President, the Senate Judiciary Committee has concluded its hearings on the nomination of Judge Anthony M. Kennedy to be an Associate Justice of the Supreme Court of the Untied States. I am announcing today my decision to vote in favor of the nomination.

I believe that the constitutional responsibility to advise and consent on the President's nominees to the Supreme Court is one of the most important responsibilities granted to a U.S. Senator. The process of selection of an individual to fill the seat of retiring Justice Lewis Powell has been divisive and bitter. While I have been critical of President Reagan earlier in this process, I believe that in the appointment of Judge Kennedy he has found a way to resolve the matter responsibly and without further rancor.

Judge Kennedy is a conservative jurist, but, as I have found by reading his opinions and talking to many, many people in my State who know him and practiced before him, he is open-minded and willing to listen to all sides of an argument.

He believes in restraint and caution and follows that course. He has strong opinions, but has no agenda to pursue on the Court.

I was unable to attend as much of the Judiciary Committee hearings as I would have liked because I was attending the conference committee meetings on the continuing resolution, and chairing one section. I have been able to read much of the transcript and talk to my staff who attended the entire hearing.

I have talked to lawyers, as I have indicated, who practiced before Judge Kennedy. I have talked to lawyers who know him and who have worked with him. I have had the personal experience of meeting Judge Kennedy at several judicial conferences and listening to him. I am impressed, Mr. President.

From my study of the record and from numerous discussions with members of the Ninth Circuit Bar, I have concluded that Judge Kennedy will serve honorably and well on the Supreme Court for years to come.

As I mentioned in my opening statement before the Judiciary Committee hearings on Judge Kennedy's nomination, of my greatest areas of concern is the area of privacy. I was encouraged to hear Judge Kennedy respond to questions from myself and other Senators, assuring us that he believed that the right of privacy is found in the Constitution. Unlike Judge Bork, who repeatedly conveyed that the right to privacy, if it existed, could not be found in the Constitution, Judge Kennedy unequivocally said the right to privacy can be found in the Constitution. Although Judge Kennedy preferred to include the right to privacy under the protection of the "liberty" language of the 5th and 14th amendments, he nevertheless was clear in his belief that the right is there and should be protected by the judiciary.

Furthermore, Judge Kennedy has stated, under oath, that he believes that the right to privacy is a fundamental right. If I might just read from the record of the hearings for a moment:

Senator DECONCINI. [I]t appears from reading your speech, that you have concluded, without question, that there is a fundamental right to privacy. And I think the chairman had you state that, and that is your position, correct?

Judge KENNEDY. Well, I have indicated that that is essentially correct. I prefer to think of the value of privacy as being protected by the clause, liberty, and maybe that is a semantic quibble, maybe it is not.

Senator DECONCINI. But it is there, is that——

Judge KENNEDY. Yes, sir.

Senator DECONCINI. No question about it being in existence?

Judge KENNEDY. Yes, sir.

And further, in response to a question from the chairman asking if Judge Kennedy had any doubt that there is a right to privacy: "It seems to me that most Americans, most lawyers, most judges, believe that liberty includes protection of a value we call privacy."

It becomes abundantly clear after reviewing the transcript of the hearings that Judge Kennedy and Judge Bork do not share the same judicial philoso-

phy as it pertains to the fundamental right of privacy. Judge Bork could not, no matter how hard he looked, find the right of privacy in the words of the Constitution. Judge Kennedy, as seen by the excerpts above, has reached an opposite conclusion.

It is central to our American tradition. It is central to the idea of the rule of law. That there is a zone of liberty, a zone of protection, a line that is drawn where the individual can tell the Government: Beyond this line you may not go.

It is hard to argue with such a simple but pure articulation of the relationship between the people of our country and our Government. Judge Kennedy, unlike the picture painted by some of his detractors, is indeed a very eloquent individual.

I am reassured by my discussion with Judge Kennedy about the fundamental right of privacy. Although we both believe it exists, we also believe it is limited. The right to privacy does not give an individual the right to commit criminal acts in private. Nor, in my view, does it sanction the killing of unborn children. A belief in the right to privacy does not equate to a belief in the right to abortion. While neither I nor others have asked Judge Kennedy his views on abortion, I do not believe that his belief in the right to privacy signals any acceptance of Roe versus Wade.

In addition to the right of privacy being found in the Constitution, Judge Kennedy was asked whether or not he believed there to be any practical significance for the ninth amendment; whether or not there was any real value to be found in the ninth amendment; and whether or not there was any purpose for the ninth amendment? Just as he found himself of a different school of thought than Judge Bork on the right of privacy, Judge Kennedy's assertions regarding the ninth amendment were much different from those espoused by Judge Bork. In summarizing the past interpretations of the Supreme Court and the ninth amendment, the nominee said that it appeared to him that the Court was treating it as something of a reserve clause, to be used in the event that the phrase "liberty" and the other broad phrases in the Constitution appear to be inadequate for the Court's decision.

Now this distinction may not appear of a great magnitude at first glance. However, as Judge Kennedy pointed out, there may come a time in the future where rights not specifically mentioned in the Constitution achieve a level of importance requiring constitutional protection. In this event, the 9th amendment would serve to provide a constitutional basis on which such a right could be protected.

During the Bork hearings it became apparent that Judge Bork had changed his mind about how far the first amendment extended. Prior to the hearings, there was evidence in Judge Bork's writings that only political speech would fall under the blanket of first amendment coverage as Judge Bork interpreted the first amendment. During the hearing Judge Bork indicated that the first amendment did indeed cover more than purely political speech, yet Judge Bork was unclear as to what speech was covered.

Judge Kennedy had no problem explaining the application of the first amendment to speech. As he stated during the recent hearings:

It (the first amendment) applies not just to political speech, although that is clearly one of its purposes, and in that respect it ensures the dialogue that is necessary for the continuance of the democratic process. But it applies, really, to all ways in which we express ourselves as persons. It applies to dance and to art and to music, and these features of our freedom are to many people as important or more important than political discussions or searching for philosophical truth, and the first amendment covers all of these forms. (TR 153)

It is apparent from the above quoted excerpt that Judge Kennedy's view of the first amendment is far more expansive than Judge Bork's.

During the Bork nomination hearings, Judge Bork communicated a belief that if one individual were to gain any rights, society or another individual would equally and inversely lose a right. Judge Kennedy, however, conveyed a different idea when discussing the right of an individual in society. Judge Kennedy said that he did not think there had to be a choice between order and liberty. But rather, "[w]ithout ordered liberty, there is no liberty at all. And one of the highest priorities of society is to protect itself against the corruption and the corrosiveness and the violence of crime, and in [his] view judges must not shrink from enforcing the laws strictly and fairly in the criminal area."

It would seem that in Judge Kennedy's view, individuals join together to protect their rights, and that unlike Judge Bork's view of our society as a "zero-sum" system, more than one interest can advance their liberties without taking liberty from other interests.

Judge Bork was clearly treading new ground when he formulated his "reasonableness" theory in the area of equal protection while speaking to the committee last summer. Prior to appearing before the committee, he had given no indication, either in his writings or in speeches, that he would apply this type of test to the various classifications of plaintiffs seeking equal protection under the 14th amendment. Once again, on this issue Judge Kennedy disagreed with the position taken by Judge Bork. Judge Kennedy informed the committee that he would follow current standards established by years of Supreme Court decisions and apply the three tiered system of review; strict scrutiny, heightened scrutiny, or rational basis, depending on what class of plaintiff is seeking redress.

Additionally, there was some question left in the minds of the committee members as to whether or not Judge Bork would apply equal protection to women. Judge Kennedy left no such doubt.

Senator DECONCINI. Would you agree, first of all, that the equal protection clause applies to all persons?

Judge KENNEDY. Yes, the amendment by its terms, of course, includes persons, and I think was very deliberately drafted in that respect.

Furthermore, while Judge Bork was uncertain whether the equal protection clause applied to women or not, Judge Kennedy was unsure that the current classification for women insured equal protection under the three tiered system. As Judge Kennedy said:

And so the law there really seems to be in a state of evolution at this point, and it is going to take more cases for us to ascertain whether or not the heightened scrutiny standard is sufficient to protect the rights of women, or whether or not the strict scrutiny standard should be adopted. (TR 170)

But you need not take my only word as to Judge Kennedy's position and the equal protection clause. The following discussion between the distinguished Senator from Pennsylvania, Senator SPECTER, and Judge Kennedy should provide the necessary confirmation.

Senator SPECTER. Is there any question in your mind about the equal protection clause applying beyond blacks to women, to aliens, to indigents, to mentally retarded?

Judge KENNEDY. No. In fact, once again, the framers could have drafted the amendment so that it applied to blacks only, but they did not. They used the word "person". (TR 229)

I am satisfied by Judge Kennedy's explanation of his membership in, and resignation from, clubs that either by rule or by practice discriminate against women and minorities. I believe that he became concerned about these practices at about the same time as did the public at large. Of course, it would have been better if he had been a leader in this regard, but he did make efforts to change things after he realized that problems existed. When he was not able to make the changes that he thought where necessary and appropriate, he resigned from the clubs. I found that his conduct in these matters was acceptable and did not evidence any prejudice or bias. If he was guilty of anything, it was a lack of heightened sensitivity. I am afraid, however, that during the time period in question, most of us suffered from the same lack of heightened sensitivity.

The one concern that I do have about Judge Kennedy is in the area of the narrowness of his rulings in civil rights cases. I was impressed by the testimony of the two witnesses representing the Hispanic Bar Association and the Mexican American Legal Defense and Education Fund. These two witnesses expressed the concerns of the Hispanic community that Judge Kennedy was not sensitive enough to the problems faced by minority citizens, Hispanics in particular. Ms. Antonia Hernandez expressed these concerns in the following manner:

> The foregoing judicial opinions rendered by Judge Kennedy and in particular the way in which he reached his results, have quite naturally caused me to conclude that Judge Kennedy—if he becomes Associate Justice Kennedy on the Supreme Court—may not be fair in adjudicating the rights of Hispanics and of other minorities. Alas, this possible unfairness could become particularly prevalent in cases not subject to compelling judicial precedent.

The decisions that Ms. Hernandez cited as being the basis for her concerns were discussed in great detail with Judge Kennedy. He explained his reasoning and the constraint that he felt required him to issue the decisions that he did. While the discrimination against Hispanic citizens in Arnada versus Van Sickle does seem to be egregious based on the facts presented to the committee, Judge Kennedy's decision seems consistent with a restrained and cautious approach to issues. His decision shows an understanding of the problems faced by Hispanics in the community and sympathetic to their attempts to remedy them. His decision certainly did not satisfy the plaintiffs in the case, but does not seem to evidence a bias against any group.

The months since Justice Powell announced his retirement from the court have been difficult for all of us. While I wish that Judge Kennedy had been the first nominee sent to us, I do believe that the process that has been followed and the decisions that have been made throughout these long months have been correct. I congratulate President Reagan for sending to the Senate a nominee so well qualified by intellect, temperament, and integrity. I urge my colleagues to confirm Judge Kennedy as quickly as possible.

Mr. President, it is of great interest to me that the critics of the process when Judge Bork was rejected were the same people—and I joined them in that case—who were proud that the process worked so well when, a couple years ago, we confirmed Justice Rehnquist to be Chief Justice of the Supreme Court. The record will show and my colleagues and the President will recall that there were some 32 Members, I believe, who voted against Justice Rehnquist. Yet, he prevailed, and he is a fine jurist. There was opposition in my own State, where Justice Rehnquist had lived for a number of years, but I felt very strongly that Justice Rehnquist was qualified for that position.

My point is that the system worked then and it is working now with Judge Kennedy. It worked when the Senate turned down Judge Bork.

I am pleased to suggest to my colleagues that they support, after reviewing the hearing record and the decisions of Judge Kennedy, confirmation of the nominee early next year.

I suggest the absence of a quorum.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. DECONCINI. I will be glad to yield to the distinguished chairman of the Appropriations Committee, Senator STENNIS.

Mr. STENNIS. I thank the Senator for the service he has rendered. I am impressed with what he has said. I have been interested and concerned to a degree, although I heard nothing contrary to good things about this gentleman. I am especially glad to have the Senator's point of view. I know the Senator thought it through. I have watched the Senator, and I am proud that he reached that conclusion. I am satisfied with it to the extent that I am of the same view when it comes to voting.

I thank the Senator again.

Mr. DECONCINI. Mr. President, I thank the distinguished chairman of the Appropriations Committee, Senator STENNIS. Let me say that his careful review and scrutiny of the debate on this floor has always impressed me, I appreciate his awareness of all the things that he is on top of, whether they are defense appropriations matters or the nominations to the Supreme Court.

I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from New York.

ATV'S AND THE CONSUMER PRODUCT SAFETY COMMISSION

Mr. D'AMATO. Mr. President, I rise this evening to comment on the U.S. Consumer Product Safety Commission. I focus on the Commission's December 16 proposed settlement of its imminent hazard complaint against the manufacturers of all-terrain vehicles known as ATV's.

Mr. President, their proposal is a Christmas present to the Japanese-based ATV industry, but it is a disaster for the American public, especially our children. ATV's have caused about 900 deaths and 330,000 injuries nationwide since 1982. At least 59 deaths have occurred in my State, in the State of New York. Half of the injuries and deaths are to children under the age of 16. ATV injuries and deaths cost the public more than $1 billion each year.

Over a year ago, Mr. President, the Consumer Product Safety Commission voted to pursue an enforcement action against the industry. Chairman Scanlon dissented from the vote. The matter was referred to the Department of Justice on February 2, 1987 and on December 11, 1987 the Department of Justice, in a long overdue decision, formally agreed to file a complaint in Federal district court seeking all the relief authorized by the Commission last December, including the refunds to consumers who purchased adult-sized ATV's for children as well as consumer refunds for all three-wheeled ATV's.

The December 16 proposed settlement, Mr. President, falls far short of the complaint and does not even match what the only American manufacturer has offered. Most importantly, because it deletes the requirement for consumer refunds, the settlement provides no effective means for keeping children from riding adult-sized ATV's—millions of which are in our communities. This is rather outrageous when the only major American ATV manufacturer has already agreed to refunds. We have an American manufacturer, Polaris of Minnesota, who has agreed to take responsible actions, while the Japanese companies, whose ATV's constitute the great bulk of products in the United States, are unwilling to do this.

Mr. President, the proposed settlement appears to be a carefully contrived attempt to limit manufacturers' products liability exposure while settling the case as cheaply as possible. In other words, CPSC has done the bidding and the work of the ATV manufacturers. Let me tell you why. The proposed settlement contains a so-called verification form that consumers must sign at the point of purchase and that manufacturers will try to use as a defense in products liability suits.

This would put the Federal Government's stamp of approval on what amounts to a release or consent covering nearly every conceivable products liability scenario associated with ATV accidents. For example, according to this settlement consumers must agree in writing to never drive at "excessive" speeds—whatever they are. The verification form doesn't explain what an "excessive" speed is. Imagine that. Our Government is saying that once the consumer signs this consent, this waiver, that he promises that he will never use this vehicle at "excessive" speeds and that he understands what "excessive" speeds are. Unfortunately, a driver finds out what the "excessive" speed is only after he has lost control and the vehicle has crashed. Obviously, if an accident occurs, the manufacturer will try to prove that the vehicle

was going at an "excessive" speed as a defense. The consumer also promises never to lend an ATV to an untrained person. How do we establish who is trained and who is untrained? The verification form also requires the consumer to promise at the time of purchase that he will never perform "stunts" such as "wheelies," and that the consumer will never drive an ATV without wearing heavy trousers or a long-sleeved shirt.

So what happens if your youngster leaves your home on a hot summer day without heavy trousers, or without a long-sleeved shirt, and is then injured? Could this then be used to mitigate any damages based on the argument that the manufacturer told you when you bought this vehicle that you have to wear long-sleeved shirts and heavy trousers. What about the people who borrow a vehicle? What about the child who loans the vehicle to one of his friends? The ATV purchaser must also promise to approach hills, turns, and obstacles with "extra care." What an incredible settlement!

Mr. President, I think it is unconscionable for the Federal Government to attempt to aid the industry at the expense of consumers by extracting a promise not to engage in certain broad, ill-defined conduct where the consumer has no meaningful opportunity to understand and appreciate the risk involved.

I am informed that this proposed settlement, this incredible plan, was negotiated after a secret December 7 meeting between the CPSC General Counsel James Lacy, Commission attorneys, and attorneys for the Japanese companies. The Consumer Product Safety Commission Chairman Scanlon and his general counsel then called a meeting of the CPSC Commissioners to propose this settlement. This meeting was called on December 16 and a proposed consent decree was approved that very same day at the insistence of the chairman and his general counsel. Interestingly, the Chairman's general counsel had this proposed consent decree for more than a week yet he never shared it with the other two Commissioners or with their staff members. The chairman and his general counsel kept it secret and never showed the key documents to them. The general counsel got them into a room and said what a wonderful settlement, please sign on the line! What took place is absolutely incredible.

I have expressed my concern on this matter to the Justice Department by way of a letter, I ask unanimous consent to have a copy of my letter to the Justice Department printed in the RECORD.

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

COMMITTEE ON APPROPRIATIONS,
Washington, DC, December 18, 1987.

Hon. ARNOLD BURNS,
Deputy Attorney General, U.S. Department of Justice, Washington, DC.

DEAR ARNIE: I was pleased to learn from the Department of Justice that it will represent the Consumer Product Safety Commission in the immediate filing of an imminent hazard complaint against the ATV industry. As I indicated in my October 7, 1987 letter to you, such an action is long overdue, given the 900 deaths and 330,000 estimated ATV hospital emergency room treated injuries since 1982. The complaint would seek the relief authorized by the Commission in its December 12, 1986 vote, including refunds for consumers who had purchased three-wheeled ATVs or adult-sized four and three-wheeled ATVs for use by children under age 16.

However, I was shocked to discover that the Commission, led by Chairman Scanlon (who voted against the enforcement action last December), has hastily endorsed a settlement proposal offered by the Japanese ATV industry. The proposed settlement falls far short of what the complaint would seek and does not even match what the only American manufacturer has offered.

Most importantly, the proposed settlement does not include any provision for refunds for consumers who have been misled by the marketing practices of the ATV industry to purchase these vehicles for their children. Thus, there is no effective means in the settlement to get many of the present child riders off these "rolling death machines."

The settlement appears to be a carefully contrived attempt to limit future products liability exposure of the ATV industry, while settling the imminent hazard case at minimal expense to the ATV industry. The centerpiece of the notice campaign is a "verification" form to be signed by consumers at the time of purchase that would later be used by the industry in the defense of products liability lawsuits as a "release" or a "consent". There is no provision for any type of cooling-off period at the time of purchase, and no opportunity for the consumer to make an informed purchasing decision that involves any meaningful assessment of the risks.

Many of the other elements of the "notice" campaign are simply a regurgitation of materials already disseminated by the distributors. The notice focuses on consumer behavior, and does not stress the peculiar design and handling aspects of ATVs that present the imminent hazard.

Key elements of an effective settlement are simply left up in the air for future determination. For example, the proposal does not include any agreement on meaningful incentives for consumers to take the hands-on training course. (Two years ago the ATV industry assured the CPSC that it would train 40,000 riders in the next year—only 3,000 to 5,000 were actually trained.) The media campaign is also unspecified.

Unfortunately, if the ATV deaths and injuries continue after the agreement is implemented, as I fully expect they will, there is no mechanism built into the settlement to go back to the court and seek expeditious relief in the form of additional corrective action.

A settlement of the magnitude of public importance of this one should not be achieved through "secret" negotiations with the industry, but must be exposed to public scrutiny before being implemented.

I strongly urge you to reject this secret "deal," which is a Christmas present to the ATV industry and a disaster for the American public, who are footing the $1 billion a year bill for ATV deaths and injuries.

Sincerely,

ALFONSE M. D'AMATO,
U.S. Senator.

Mr. D'AMATO. In addition, Mr. President, I also sent a strong letter of my concern with respect to this matter to the Chairman of the Consumer Product Safety Commission.

I also ask unanimous consent that letter of December 19, 1987 be made a part of the RECORD.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, December 19, 1987.

Hon. TERRENCE SCANLON,
Chairman, U.S. Consumer Product Safety Commission, Bethesda, MD.

DEAR CHAIRMAN SCANLON: After having been informed by the Department of Justice this week that they are prepared to immediately file an imminent hazard complaint against the All-Terrain Vehicle (ATV) industry, I was appalled to learn that the Consumer Product Safety Commission, at the urging of your General Counsel, James Lacy, has hastily decided to accept a settlement advanced by the Japanese ATV manufacturers.

This settlement is very good for the industry, but a disaster for the American public. It is yet another sad example of how the CPSC, through your machinations, has failed to carry out its statutory mandate. I have urged the Justice Department to reject this proposal and file the complaint immediately.

The proposed settlement approved by the Commission on December 16, 1987 falls far short of what the Justice Department has agreed to seek in court, and is inconsistent with the Commission's December 12, 1986 vote. By dropping all provisions for consumer refunds, the agreement contains no meaningful way of getting children off adult-sized ATVs. Although this omission is consistent with your vote last December not to pursue the case, it means that the proposed settlement provides far less than what the only major American manufacturer has offered.

The major beneficiary of this settlement will be the Japanese ATV industry, whose members will attempt to use it to reduce their products liability problems. The settlement contains an unconscionable safety verification form that will serve the ATV industry as evidence of a consumer "release" from liability or "consent" to certain risks of which the consumer has not been adequately informed.

I was most disturbed by the manner in which you and your General Counsel secretly arrived at this settlement, and presented it to the other Commissioners with no opportunity for them to carefully examine or consider it. Although the extensive settlement proposal had apparently been in existence for several weeks, and had apparently already been carefully reviewed by the industry, your General Counsel neglected to show the proposal to the Commissioners until the day of the Commission meeting. The Commissioners were then told that the proposal had to be given to the industry at-

torneys for their final review at a meeting scheduled the next day. Once again you have abused the collegial process to achieve your goals at the expense of American consumers.

You can be assured that this matter, and your actions, will be subject to a thorough investigation by the appropriate Congressional oversight Committees.

Sincerely,

ALFONSE M. D'AMATO,
U.S. Senator.

Mr. D'AMATO. Mr. President, I urge the Justice Department to reject Mr. Scanlon's proposed settlement. Indeed, it comes from Mr. Scanlon, it comes from his general counsel, and it comes from the Japanese manufacturers who are attempting to escape liability.

It seems to me that in order to protect all American consumers, 330,000 of whom have been injured and 900 who have been killed, the Justice Department must file a complaint immediately. It must be a complaint that does the business of the American people and their children rather than that of the Japanese ATV industry which this settlement proposes to protect.

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

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

RECESS SUBJECT TO CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that morning business continue over the period of the next hour and that Senators may speak therein; that, in the meantime, the Senate stand in recess, awaiting the call of the Chair.

There being no objection, at 5:20 p.m., the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 5:46 p.m., when called to order by the Presiding Officer [Mr. SHELBY].

A SECRET TRIAL IN SHANGHAI

Mr. HELMS. Mr. President, this morning there was a secret trial in Shanghai. After holding him in solitary confinement for 11 months at the notorious Detention House No. 1, Chinese Communist authorities staged a mock trial without any pretense of elemental fairness and sentenced University of Arizona graduate student Yang Wei to serve 2 years in a labor camp. Like their model, the Soviet gulag archipelago, the Chinese Communists have long established a series of harsh regime labor camps in the most desolate part of the country.

In Communist eyes, his crime was a serious one: Think of it, Mr. President, Yang wanted to bring freedom and democracy to the Chinese mainland. What a horrible crime for him to commit. He wrote articles in magazines and put up wall posters calling for political reform in China. For a country like ours, brought up on the writings of Thomas Paine, this is pretty tame stuff.

The Maoist banners used to read "Uphold the Great and Glorious Cultural Revolution." It is clear from what happened today in Shanghai that the fires of the cultural revolution have not been put out. That time of madness when tens of millions were persecuted and died, and many were driven to suicide, may be upon the unfortunate Chinese people again. The charges against Yang Wei, "Counter Revolutionary Propaganda-Instigation," are the same type of charges which were hurled at innocent people from 1966 to 1976.

Mr. President, not long ago, the wife of Yang Wei was in my office; a delightful young woman. I wish every Senator could have had the experience of meeting with her and some of her friends.

At that time, they did not even know where Yang Wei was, but today we found out that for the past 11 months he has been in prison and today we found out that he has been tried summarily, with a snap of the finger, and sentenced to 2 years at hard labor for advocating freedom. Which reminds me of the evening about 10 years ago when Alexander Solzhenitsyn came to my home in Virginia and spent an evening. I recall that we had chairs drawn facing each other. We were looking each other in the eyes. And that evening, he pleaded: "Senator, when will the American people wake up? Senator, when will your leaders really understand what tyranny is all about?"

I am not sure that we are awake today. I am not sure that our leaders understand what tyranny is all about. But in the case of the secret trial of Yang Wei, today in Shanghai, the question will not go away.

Mr. President, what does this long illegal detention and secret trial say about the Chinese Communists' pretenses to establishment of a regime of laws? What does it say about the Communists' guarantee of human rights in Hong Kong after 1997? What does it say to potential Western investors? Well, I think I know. It says that the Chinese Communist Party has not changed its ways. Stalinism has not been abandoned. Arbitrary arrest and show trials are just beneath the surface.

Of particular concern is the precedential nature of this trial. It is clear that Chinese students who exercise the most basic of normal political rights must face a severe threat of persecution. It is equally clear that the Chinese Communists intend to suppress any calls for reform or calls for the sharing of power with an opposition party. In this respect the indictment of Yang Wei notes his association with the magazine "China Spring" and the "Chinese Alliance for Democracy," both of them being the formal names of those publications. Clearly anyone else who has associated with either of these organizations has a reasonable fear of persecution as well.

Over the course of this year the State Department has made a valiant effort on behalf of Yang Wei. Secretary of State Shultz has raised it more than once with Chinese officials but he has been greeted with nothing but stonewalling and lies. Just a few weeks ago he was assured by a high ranking Communist Chinese official that foreign observers would be welcome at Yang Wei's trial. But when American officials asked to observe this morning, they were turned away and the doors to the courtroom remained locked.

So, today I am pleased to join with my distinguished colleagues, Chairman PELL and Senator DECONCINI, in deploring this decision to try Yang Wei in secret. We ask that the Secretary again bring up the case of Yang Wei with the highest level of Chinese Communist authorities.

Incidentally, Mr. President, the Congress has already made its views known about Yang Wei. Section 907 of the Foreign Relations Authorization Act for fiscal years 1988 and 1989 recites the injustices of this case and calls for his immediate release. Given the intransigence expressed in this case, in the case of Tibet and in the case of continued arms sales to Iran, next year I intend to ask for a complete review of our entire relationship with the People's Republic of China. I intend to ask whether a downgrading of our relations is not in order to reflect the current realities.

Mr. President, I ask unanimous consent that the indictment of Yang Wei be printed in the RECORD so that Senators may see for themselves whether the charges are worthy of severe punishment or not. I also ask unanimous consent that the letter from Chairman PELL, Senator DECONCINI, and me to Secretary Shultz be printed in the RECORD.

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

INDICTMENT OF THE BRANCH OF SHANGHAI PEOPLE'S PROSECUTOR, 1987 No. 37

The defendant, Yan Wei, a male, 32 years old, of the Han nationality, native place Jiangjin county; Sichuan Province, original-

ly sent to U.S. to study by Shanghai Biochemistry Institute of the Chinese Academy of Science and returned to China in May, 1986 and lived in 2nd Friendship Village, 4th Guangling Road, Shanghai.

The defendant, Yang Wei, was detained by Shanghai Public Security Bureau under the charge of "counter revolutionary propaganda and agitation" in Jan 10, 1987 and was arrested on Jan 19 according to the law. After investigation by the Shanghai Security Department, Yang Wei's case was presented to this Prosecutor. The examination further found out:

The Defendant, Yang Wei, affiliated himself in Summer of 1985 with a reactionary organization, "Chinese Alliance for Democracy", (abbreviated as Alliance) which takes "the elimination of the 'Four Cardinal Principles' from the constitution of People's Republic of China and basic reform of present autocracy in China" as its program. He also wrote many reactionary articles under the pseudonym of Sang Zi and Sang Yang for the reactionary journal "China Spring" published by the "Alliance". These articles advocate "shaking the absolute authority of Chinese Communist Party and its 'Four Cardinal Principles"; "creating a chance" for a "democratic coup d'etat"; agitating for the overthrow of the People' Democratic Dictatorship and socialism.

During his stay in Shanghai in December 1986, the defendant took advantage of a riot caused by a small number of students and went successively to People's square, Fudan University, Jiatong University, Tongji University and Medical Universityes etc, where he collected information to send to the headquarters of the "Alliance", providing the materials for distorting the facts and fabricating rumors. He said that many of the students "were beaten by People's policemen, and had bloody noses and swollen faces"; "a female student of Jiaotong University was beaten by three policemen, her hair was grasped and pressed onto the ground"; "some students were forced to kneel". At the same time, Yang Wei requested that the "Alliance" send to rioting students letters of support, indicating clearly in the letters oversea addresses and telephone numbers of the "Alliance" and "China Spring". He also requested that the "Alliance" compile leaflets, words of songs, letters expressing appreciation and solicitude and send them into China for distribution; and he designated appropriate watchwords. Moreover, he contrived to transfer the reactionary journal "China Spring" through Hong Kong into China.

On the night of December 22, 1986, the defendant, Yang Wei, went to Fudan University and posted up reactionary posters under the name of the "Alliance"; he put up reactionary slogans to support all out riot-making students.

On December 30, 1986, the defendant, Yang Wei, received "A Letter for Students in China of Supporting and Suggesting the Targets and Tactics of Democratic Movements" written by the leading person himself of the "Alliance" headquarters, advising riot-making students in "deciding clear and realistic intermediate objectives of struggle"; "changing the property of student's unions from being hack instruments of the Chinese Communist Party"; "tactically, making efforts to get support from worker's strike", instigating Yang Wei to "distribute the letter and collect detailed information about the student movement and convey it to us as soon as possible" and also appointing an address for direct mailing. On the next day, Yang copied the letter and sent it to Chen in Beijing and Shi in Guangzhou, telling them to make posters, mail copies, and spread them widely.

During this time, the defendant, Yang Wei, made leaflets for the reactionary program of the "Alliance", but the leaflets were found by the Public Security Department before he could distribute them.

In above criminal facts are confirmed by the reactionary leaflets found, reactionary posters and reactionary manuscripts, letters witness' testimony and a check of handwriting, etc. The defendant does not deny these facts. Summarizing above stated, the present prosecutor determined:

The defendant, Yang Wei, being hostile to People's Democratic Dictatorship and Socialism, doing reactionary propaganda-instigation, having broken the 102nd item of Penal Law of People's Republic of China, committed the crime of "Counter Revolutionary Propaganda-Instigation" and should be punished by law. The defendant is prosecuted according to the 100th item of the Criminal Proceeding Law of People's Republic of China.

LI TIAN-XI,
Shanghai Intermediate People's Court, The Branch of Shanghai People's Prosecutor.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, December 21, 1987.

Hon. GEORGE P. SHULTZ,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: We join you in deploring the decision of Chinese authorities to try University of Arizona graduate student Yang Wei in secret today. This decision is manifestly counter to international principles of justice which uphold a defendant's right to a public trial.

Mr. Yang has been declared a Prisoner of Conscience by Amnesty International, and rightly so. For eleven months he was held incognito in the notorious Shanghai Dentention Center Number One contrary to both Chinese law and international norms. He has been charged exclusively with political crimes, namely distributing leaflets and writing articles calling for political reform in China. The charges against Mr. Yang would be considered the normal excerise of political rights in the United States or any other country which professes to respect human dignity.

The Congress has already spoken on the case of Yang Wei. Section 907 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 describes the unjust treatment of Yang Wei and calls for his release. We urge you to raise the issue of Yang Wei as a priority item with Chinese authorities at the highest level. We are particularly concerned that this trial not be used as an excuse to suppress freedom of expression by others.

Sincerely,

CLAIBORNE PELL.
JESSE HELMS.
DENNIS DECONCINI.

Mr. PELL. Mr. President, it has come to my attention that a Chinese student named Yang Wei, who had attended the University of Arizona, was convicted in a secret trial yesterday in Shanghai. He was sentenced to 2 years in a labor camp for distributing leaflets and putting up posters. I rise to express my deep concern about this matter and to support my Republican colleage, Senator HELMS, in urging the Chinese Government to release Yang Wei and to permit greater freedom of expression for students and others seeking democratic reforms in China.

I ask unanimous consent that an article from the New York Times of December 21, 1987, be printed in the RECORD, at this point.

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

[From the New York Times, Dec. 21, 1987]

CHINESE STUDENTS ACROSS U.S. PROTEST AN ARREST IN SHANGHAI

(By Wolfgang Saxon)

Chinese students at many colleges and universities across the United States have signed a petition to their Government on behalf of an American-educated molecular biologist who was arrested nearly a year ago in Shanghai during a crackdown on political dissent.

The petition, dated Dec. 18, is addressed to Zhao Ziyang, the Chinese party leader. It cites recent reports that the prisoner, Yang Wei, was about to go on trial in Shanghai "on charges of promoting and instigating counter-revolutionary propaganda."

The charges refer to articles Mr. Yang had written for the journal "China Spring," published in New York City since 1982 by a Chinese emigrant physician, Wang Bingzhang, founder of the Chinese Alliance for Democracy. In addition, Mr. Yang was accused of joining Dr. Wang's organization and of handing out leaflets during student demonstrations for freer speech and democracy in December 1986.

He was arrested at his parents' home last Jan. 11.

The petition noted that some signers might not see eye to eye with Mr. Yang on his politics and that many did not belong to any political organization. Nevertheless, it declared, prosecuting Mr. Yang for joining an organization and expressing ideas were violations of China's Constitution.

"Human rights situation in China," the open letter said, "is a major concern of many Chinese students and scholars abroad and has drawn a lot of attention of the international community." It said Mr. Yang's case was entirely political and belied Mr. Zhao's recent assertion that there were not political prisoners in China.

Detaining Mr. Yang for 11 months without formal charges or trial was also contrary to the country's law on criminal procedure, the signers said.

The petition demanded that the detention of Mr. Yang be explained and that he and his family be given the right to choose their own defense lawyers. It further asked that Mr. Yang be tried in public, and that his rights to a proper defense be fully assured.

Finally, the petition requested that representatives of Chinese students abroad be allowed to attend the trial or testify for Mr. Yang and that they be guaranteed freedom to return overseas to resume their studies.

Mr. HELMS. Mr. President, seeing no other Senators wishing to speak, I ask unanimous consent that I may be permitted to proceed on another subject for at least 5 minutes.

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

The Senator from North Carolina.

THE RANGEL AMENDMENT

Mr. HELMS. It would be putting it mildly to say, Mr. President, that I was astonished to find over the weekend in the report on the reconciliation bill that the conference included the so-called Rangel amendment denying foreign tax credits to United States companies that do business in South Africa.

I say that I was astonished because the Rangel amendment was put forward in the guise of a revenue-raising amendment. I say it was disguised in the form of a revenue-raising amendment because its manifest purpose is quite the opposite. It is not a revenue raiser at all.

The purpose of the Rangel amendment is to make the tax bill so expensive for United States-based multinationals doing business in South Africa that they will withdraw from South Africa. If they withdraw from South Africa, they will get their foreign tax credits back. As soon as that happends, then there will be no enhanced revenues to the U.S. Treasury.

So the pretenses of the Rangel amendment have been laid bare. Mr. President, this measure is not a revenue-raising measure at all, and it has no place in the reconciliation package. Its sole purpose is to be punitive. It is noteworthy that it removes all tax credits a multinational may have, not just tax credits derived from operations in South Africa. So the purpose of this is to achieve by the back door a foreign relations purpose that has no reasonable relation to the revenue-raising process.

But that is not the only abuse of the legislative process, Mr. President. We have no idea of the extent of the impact of this measure. It is essentially a measure to force disinvestment in South Africa. The idea of disinvestment was roundly rejected last year when Congress passed the Anti-Apartheid Act. Disinvestment was considered too extreme, too risky, too punitive, with results that would fall upon the black and colored peoples of South Africa the most heavily.

Mr. President, the Rangel amendment has never been the subject of a single congressional hearing in either House of Congress. Neither the Senate nor the House has ever spent as much as a full day debating a measure with such far-reaching consequences. It has never even been considered in open session by any congressional committee.

Last year, we had the Dellums bill, which sought complete disinvestment. The Senate overwhelmingly rejected that proposal, and the House agreed with the Senate by receding from the bill it had previously passed. It was felt to be too extreme and totally unnecessary, in the view of the House of Representatives. But now we have another, derivative proposal, with no hearings, no debate, no justification as to why it is necessary.

Nor can one claim an overwhelming mandate for the inclusion of the Rangel amendment in this measure. The reconciliation package came before the House under a modified closed rule—one that prohibited amendments to Congressman RANGEL's proposal. And on final passage, the House passed the reconciliation measure by only a single vote—and then only after the Speaker kept the voting period open an extra 15 minutes during which arms were twisted and the needed votes secured.

So here we have it: A mischievous foreign policy initiative, placed on the House bill without amendments possible, and now suddenly thrust before the Senate as part of a larger package bringing government operations to a crisis. The Senate has no opportunity to work its will, Mr. President, no opportunity at all.

Mr. President, the administration is strongly opposed to this provision, and it is correct in doing so. If this legislation passes the Senate, I urge the President to veto it forthwith.

We all know what it really means when legislation is passed without holding hearings, and under rules that prevent its revision. It means that the proposal can't stand on its own two feet. It is a deed that must be done in the dark of night.

Neither the rush to solve our budgetary problems, nor the understandable haste to get out of here for the Christmas holidays should stand in the way of our efforts to help the peoples of South Africa. For we all know that the Rangel amendment is an amendment which will clearly result in the suffering and disruption for the black and colored people of South Africa. Of course, Mr. RANGEL seems to think that in the long run it will help those people; but the record is quite otherwise. Already the other sanctions Congress has imposed have thrown black people out of work, disrupted their career development, split up families.

Mr. President, the way to clear up the remains of apartheid in South Africa is more investment, not disinvestment. More investment creates more jobs, more consumer purchasing power, better education, and irresistible pressures for orderly political change.

But we know what sanctions have already cost South Africans. Sanctions have cut back on progress, have thrown people out of work, have increased tensions among blacks, and created dissensions between ethnic groups.

I am told that, for United States companies operating in South Africa, the South African operations comprise only about 1 percent, or less, of the multinationals' overseas business. They will simply pull out, rather than forgo their foreign tax credit.

Will this put pressure on the white business group in South Africa? Not in the short run, Mr. President. We have already seen what happens when so-called disinvestment takes place. Two things happen. With regard to whites, there will be further sellouts at "bargain basement" prices to South African entrepreneurs, creating instant millionaires. I read in an article recently that such sellouts by American companies since the U.S. Congress imposed sanctions last year already have made some 125 new millionaires. And at the present time, only a very few colored, Indian, or black South Africans have been in a position to take care of this.

And the second thing that will happen is that the poor, the unemployed, the blacks will be directly and immediately affected for the worse.

Mr. President, let us look at the record, in detail. I had the opportunity to go to South Africa last August. It was not a vacation tour, and not a junket taken at taxpayers' expense. I was invited to go by the South African Agricultural Union, a nonprofit private organization that represents 75,000 farmers, white, black, and colored. The Agricultural Union wanted me to see the evil that sanctions were bringing about in South Africa.

And I saw plenty. I talked to opposition politicians representing every ethnic group and every politicial persuasion except the Communists.

I talked to people who had lost their jobs, and others who were about to lose them. I also found out the great investment that the large corporations were putting into their human resources—their employees. The South Africans use a term that sounds old-fashioned and a bit quaint to American ears, but it is perfectly straightforward in their version of English. It is called an investment in uplift.

Because these companies operating in South Africa are multinationals, they have had the resources to develop a great number of these uplift programs for their black employees. Instead of just providing jobs for blacks, these companies often give education grants, provide improved housing for blacks, support local school and day care centers, and provide equal pay for equal work despite the color of their employees' skins. Will the South African companies who have purchased the American holdings be able to continue such programs? Most likely they will not, because they will have to rely on South African earnings alone and those earnings will not be large enough to sustain such uplift programs for their employees.

Up to March 1987, 120 United States companies had left South Africa, with 93 doing so after the sanctions cam-

paign began in 1985. By August of this year, 144 American companies had left South Africa or said they had plans to leave.

Mr. President, I now want to quote from a recent study, "Sanctions: The Republic of South Africa," which appeared in the Journal of Defense and Diplomacy:

The June 1987 report of the Investor Responsibility Research Center, Inc., states that since January 1, 1984, 36 non-North American companies have disinvested. During the same period, 120 U.S. companies have pulled out, 40 of them in 1985 and 48 in 1986. Few, however, have elected to pull out lock, stock, and barrel. Rather, many of the companies with a major presence have sold out to local management and have established formal or informal arrangements to be able to continue to market and service their products in South Africa. Others have chosen to sell to an offshore trust by way of a self-financed deal, which enables them to maintain a stake in the South African market and to continue to transfer capital overseas through loan repayments.

Few companies believe that their departure will be anything but counterproductive as far as political developments are concerned. Corporations that have made the decision to withdraw from South Africa generally ascribe their departure to two factors: first, the poor performance of the South African economy throughout the past decade and particularly during the lastest recession, and second, the escalating political turbulence and violence. An additional reason for some departures is the failure of some American companies to remain competitive in the face of stiff competition.

In late 1985, sanctions also became a factor. Upon Exxon's departure its President, Lawrence Rawl, explained, "The deterioration of the South African economic and business climate caused by the continuing internal and external constraints has affected our business and our potential for growth.

When Fluor corporation announced its departure in December 1987, its Chairman, David Tappen, stated, "The management of Fluor believes sanctions and the departure of the American companies are not an effective way to hasten an end to apartheid. We have reached a point, however, where an orderly transfer of ownership is in the best interests of the corporation, its employees, shareholders and clients" . . . The Fluor corporation statement was a clear and direct result of sanctions, particularly those imposed at a state and local level.

In some industries, when U.S. holdings have been sold to local people, employment has been maintained at a fairly constant level, at least in the short run. In other industries, this has not been true. For example, let us speak of the auto industry in Port Elizabeth. When Ford sold to SAMCOR, the South African Motor Corporation, SANCOR decided to move the operation to Pretoria, closer to the largest auto market. While 200 employees were transferred to Pretoria, an estimated 4,000 in Port Elizabeth lost their jobs—and Mr. President, I remind my colleagues that they were mostly blacks.

Again I quote for the same study:

Another extremely important consequence of the business withdrawal will be decreased funding for education and training. The University of South Africa's Bureau of Market Research, in a study that covered 98,623 firms in South Africa, calculated that 2.8 percent were foreign-owned or controlled enterprises which employed 11.9 percent of the employees concerned. They were, however, responsible for roughly 20 percent of all the expenditure on training and education by the private enterprises, and responsible for 14.8 percent of expenditure on in-service training. Furthermore, between 1981 and 1985, these foreign companies accounted for 19.5 percent of the expenditures on community development projects.

That's right, Mr. President. Those who want revolution in South Africa will be going a long way toward attaining the goal when they force all American companies to leave and further exacerbate the unemployment of the black population in South Africa.

Sanctions against South Africa have already resulted in the loss of thousands of black jobs in South Africa; the previous pullout and/or sale of American companies' holdings there have resulted in thousands of other jobs no longer being available; and now the U.S. Congress wants to make the situation even worse. When I was there this past August, I spent a great deal of my time in the agricultural areas, talking to whites, coloreds, Indians, and blacks. Sanctions have hurt the agriculture industry in South Africa—and once again, blacks have suffered the most.

Between 1.2 and 1.3 million blacks and coloreds in South Africa are dependent on the agriculture industry for jobs, and when you consider that each worker supports, on the average, a family of five people, you can then safely say that over 6 million blacks and coloreds depend on agriculture for their livelihood, with the majority—75 percent—being blacks who have no other skills and know no other form of gainful employment. Let's look at sugar farming as an example. There are 25,000 sugar farms in KwaZulu-Natal area—and 23,000 of them are small holdings operated by blacks.

Mr. President, I want to make that absolutely clear: 23,000 are operated by blacks. Over 150,000 blacks in this area are connected with sugar farming which means that almost 750,000 blacks in Natal rely on sugar farming to put food in their own mouths.

How has the United States recently helped them? We cut off South Africa's sugar quota last year, thus immediately affecting some 20 percent of blacks in South Africa. While the amount of sugar sold to the United States was not a large percentage of the total sugar exports, the impact was grossly out of proportion. Because the worldwide price of sugar has been depressed in recent years to about 5 to 6 cents per pound, selling a portion of the production to the United States was very important because the United States has paid 20 cents per pound under our quota system. The 2,000 large white sugar cane growers will weather the storm. If they can't make sugar cane growing pay, they can sell their farms to the timber industry—which does not employ any where near the same number of people as farming.

But what can the 23,000 black sugarcane growers do? They don't really own their land but hold it under a system of tribal grants—and you can't sell what you don't own. So, these black sugarcane farmers will have to go back to subsistence farming or migrate to the already over-crowded townships near the large cities, hoping to find work there.

Make no mistake about it, Mr. President. Complete disinvestment of American companies in South Africa—which the Rangel amendment will bring about—will not speed the pace of reform in South Africa; it will simply increase unemployment among blacks and, hopefully on the part of its proponents, bring revolution in the country closer than ever before.

The African National Congress [ANC]—which proponents of the Rangel amendment seem to think is the only legitimate successor to the present Government in South Africa—has made it clear that it wants a complete takeover in South Africa.

And what is the ANC doing now? Its leaders are condoning the killing of more blacks and thereby intimidating their fellow blacks in order to bring about, they think, a Marxist state on the tip of Africa. I quote from a Washington Post article of this past Saturday concerning the wounding by terrorists of 10 black constables and two civilian passers-by in Nyanga township near Cape Town this past week:

It was the fourth serious attack on black policemen in 10 days and appeared to reinforce fears expressed by the white minority government in Pretoria that the outlawed African National Congress guerrilla movement planned to launch a pre-Christmas offensive of ambushes and bombings.

The incident was similar to an ambush Saturday in Johannesburg's Soweto township, when gunmen opened fire on a police vehicle, killing two black policemen and wounding four others.

"On Tuesday, a black policeman was killed and two others were wounded when a gunman fired on a patrol in Nyanga township. On December 9, two black policeman were wounded when assailants shot at a vehicle carrying 30 officers to their post near the New Crossroads squatters' camp near Cape Town.

Black Policemen, employed by the South African police and by township councils, have long been the target of attacks by militant nationalists, who regard them as collaborators with the white government. The frequency of such attacks has increased in recent months, especially against hastily trained special constables.

These terrorists, Mr. President, are the ones this Rangel amendment supports. How can anyone in the U.S. Congress or elsewhere come down on the side of violence when alternative means can be found? I am sorry to say it, but one day we will all wake up and find that we have a Communist state in South Africa.

Mr. President, let me return to the study from the Journal of Defense and Diplomacy:

By targeting labor intensive industries, sanctions have put thousands of black South Africans out of work; the dependents of these jobless number in the tens of thousands. The sanctions campaign has also diminished the resources available to put blacks back to work or to provide them health, education, and other services.

Sanctions have increased the concentration of wealth in the hands of white South Africans.

Sanctions have caused a very substantial increase in U.S. imports of strategic minerals from the U.S.S.R. and Eastern Bloc countries.

Sanctions have enhanced South Africa's trade with the U.S.S.R. and the Eastern bloc nations.

Sanctions have also diminished western influence in South Africa, particularly United States influence.

As U.S. influence on the South African government and the white community has dropped to almost nothing, U.S. influence on black South Africans has seen no corresponding increase.

That's the story already, Mr. President. And we are about to adopt the Rangel amendment into law thereby making all these conclusions even more true.

Mr. President, let me summarize by repeating what I said previously:

This amendment will result in further disinvestment by U.S. companies in South Africa and will bring the goal of its proponents much closer. It is a goal which can only result in bloody revolution and violence against a government which is making needed reforms. The Rangel amendment will bring the aims of the terrorist ANC closer and closer. I cannot believe that is what the U.S. Congress really wants, and I must disassociate myself from this action.

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

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 6 p.m., recessed subject to the call of the Chair.

Whereupon, at 9:34 p.m., the Senate reassembled when called to order by the Presiding Officer [Mr. FOWLER].

The PRESIDING OFFICER. The majority leader is recognized.

SENATE SCHEDULE FOR 1988

Mr. BYRD. Mr. President, for the information of all Senators, I am placing the Senate schedule for 1988 in the RECORD. The Senate will reconvene for the 2d session of the 100th Congress on Monday, January 25.

The projected schedule for the next session generally follows the format of 3 weeks in session and 1 week out of session. There is a longer recess in August between the Republican National Convention and Labor Day. The target for sine die adjournment is Saturday, October 8.

I would hope that we would be able to meet that target, considering the fact that the national elections will be held in November. I hope we will be able to complete our work in advance of those elections sufficiently to give Members some time for campaigning without having to worry about the Senate schedule.

I also hope that it will not be necessary to return to Washington for a post-election session.

All Senators should expect sessions and votes, early and late, on Mondays and Fridays during the weeks that the Senate is in session.

I will have to have the cooperation of Senators if we are going to make this schedule work. I will have to have their cooperation in being present early on Mondays and late on Fridays and throughout the days of the week.

Also, I will need the cooperation of the Republican leadership as well as the Senators on my side of the aisle and on the other side of the aisle not to leave, in addition to the Republican leadership in calling up bills if I have must legislation to come before the Senate.

With the close cooperation by the membership of the Senate on both sides in considering legislation, this schedule should permit us ample time to transact the Nation's business.

Mr. President, I ask unanimous consent to include in the RECORD the Senate schedule for the 100th Congress, 2d session.

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

SENATE SCHEDULE 1988, 100TH CONGRESS, 2d SESSION

January 25: Senate convenes.
February 8–12: Senate not in session.
February 15: Senate reconvenes Washington's Birthday.
March 7–11: Senate not in session.
March 14: Senate reconvenes.
April 1–8: Senate not in session.
April 1: Good Friday.
April 3: Easter Sunday.
April 11: Senate reconvenes.
May 2–6: Senate not in session.
May 9: Senate reconvenes.
May 30–June 3: Senate not in Session.
May 30: Memorial Day.
June 6: Senate reconvenes.
June 30–July 5: Senate not in Session.
July 6: Senate reconvenes.
July 18–22: Senate not in session, Democratic National Convention.
July 25: Senate reconvenes.
August 15–September 6: Senate not in session.
August 15–19: Republican National Convention.
September 5: Labor Day.
September 7: Senate reconvenes.
October 8: Sine die adjournment.

RETIREMENT OF CHARLES G. HARDY

Mr. BYRD. Mr. President, on Wednesday, December 16, Senators and staff gathered to extend their good wishes to Charles G. Hardy upon his retirement.

Mr. Hardy is officially retiring on January 3 after 21 years of service to the U.S. Senate. For all but 1 month of that 21 years, he has served as a Chamber attendant. In that capacity, he has been extraordinarily helpful to Senators and countless staff members and has always maintained his good humor during the long hours of Senate sessions.

Charlie has gone out of his way to be helpful to all of us and to express his concern whenever any of us have suffered personal tragedies. He will be missed by all of us.

Prior to beginning his employment in the Senate, Charlie had worked for the Royal Typewriter Co. for 22 years and was the first black employee of that company to become a supervisor.

When asked what he plans to do during his retirement, Charlie indicated that he will spend some time working with senior citizens and children. I know that everyone who benefits from his kindness in his new endeavors will appreciate him as much as we in the Senate have appreciated him.

I extend my appreciation to Charlie for his years of faithful service and wish him the best in his retirement years. We all hope too, that he will be back to see us from time to time.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, following the adoption of the conference report on the Housing bill, the Senate will shortly be taking up the reconciliation conference report and, following that, when the House has completed its work on the continuing resolution, the Senate, of course, will go to that.

I hope we will be able to complete our work in a reasonable amount of time on the reconciliation and continuing resolution conference reports.

There will be rollcall votes on both. These rollcall votes were announced as of yesterday by the distinguished Republican leader and myself and Senators have been duly alerted.

I will say that before the morning Sun comes creeping out of the East, hopefully we will be able to go out sine die and go home for a happy holiday season.

Mr. President, I yield the floor.

Mr. CRANSTON. 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 clerk dispense with further reading of the roll.

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

JACK O'LEARY

Mr. DOMENICI. Mr. President, it is my sad duty to report that over the weekend our country lost one of its most distinguished and thoughtful public servants. John F. O'Leary, whose 30 years of national service included senior energy appointments under four Presidents, died of cancer in Philadelphia on Saturday.

To Jack O'Leary, serving one's country in high public office was a natural calling. Under Presidents Kennedy, Johnson, Nixon, and Carter, his many positions included Administrator of the Federal Energy Administration, Deputy Assistant Secretary of the Interior, and head of the Department's Bureau of Mines, Director of Natural Gas for the Federal Power Commission and Director of Licensing for the U.S. Atomic Energy Commission. From 1975-77, he moved to State service, serving as secretary of energy and minerals for the State of New Mexico. When the decision was made to create a new Cabinet-level Department of Energy in 1977, Jack O'Leary was made its Deputy Secretary.

At each post, and on each assignment, Jack O'Leary put sound public policy above political partisanship. He left public office in 1979. His integrity was so widely respected, and his knowledge of the nuclear utility industry so profound, that Jack played a leading role in TMI's recovery process, so much so that he was made chairman of GPU Nuclear Corp. in 1984, then Chairman and CEO of the parent GPU Corp. in 1987.

Let me echo the sentiments of his former colleague, Energy Secretary James R. Schlesinger: "Jack O'Leary was a long-time public servant, a man of great intellectual range and vision with a wry sense of humor, and a dedication to the achievement of his convictions and goals."

Mr. President, Jack O'Leary is survived by his wife Hazel Reid O'Leary, herself a valued former public servant. A memorial service will be held at 2 p.m. on December 30 at the Cosmos Club, and I know many of my colleagues will want to attend.

Secretary O'Leary leaves behind a legacy of service to one's country which is, perhaps, the finest remembrance we could hope to have of this man and his work.

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

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

THE SOUTH KOREA ELECTION

Mr. FORD. Mr. President, the Republic of Korea elected a new President, Roh Tae Woo, on Thursday. This election, which represents the first nationwide vote in 16 years, is a potentially giant step in that nation's transition to full democracy.

It is my hope that Korea's economic prosperity can continue under its new leadership in a manner that is beneficial to both of our countries. Trade figures indicate that the United States has been, and will continue to be, a key to Korea's economic growth. They are our seventh largest trading partner. In 1986, 40 percent of all Korean exports went to the United States. And for a variety of reasons, Korea's expanding trade surplus with the United States reached $7.4 billion last year.

I welcome the reported comments of U.S. Trade Representative Clayton K. Yeutter on Wednesday, where he indicated that the time now may have come to vigorously pursue a number of trade disputes with Korea. This action is inevitable in the development of a healthy trading relationship with any maturing democracy.

The 1987 national trade estimate report on foreign trade barriers, prepared by the USTR Office, outlines several areas where trade relations might be improved with Korea. There are various tariffs and other import charges affecting textiles, agricultural products, and several manufactured goods. Quantitative restrictions still apply to tobacco, poultry, beef, feed grains, and other agricultural products. Further unwarranted restrictions may exist regarding import licensing, labeling and certification standards, intellectual property protection, and various service barriers affecting insurance, banking, advertising, and telecommunications.

Mr. President, of particular interest to the many small farmers in my State are the ongoing negotiations being conducted by USTR with respect to the Korean cigarette market. At stake is the fundamental right to compete evenly in a market that is virtually closed to foreign producers. I am hopeful that these negotiations will now proceed expeditiously and in good faith to a final resolution, averting the need for any formal proceedings. It is quite clear that a negotiated solution would be far superior. I am also hopeful that progress will be made in the other areas currently being discussed by our trade officials.

Mr. President, I hope that expanded trade between the United States and the Republic of Korea will continue to the mutual benefit of both of our economies, and to the ultimate benefit of democracy around the world.

UNITA'S COUNTER-OFFENSIVE CRUSHES SOVIETS, CUBANS, AND ANGOLANS

Mr. HELMS. Mr. President, in July the forces of the Soviet Communist empire set out on the largest Communist offensive to date of the Angolan civil war.

The Soviets, the Cubans, the Angolans, and their combined military forces, suffered thoroughly devastating defeat at the hands of the pro-Western, prodemocratic, indigenous armed forces of the national union for the total independence of Angola, known throughout the Western World as UNITA.

The Communists had set out to overcome the memory of their 1985 defeat. As Senators may recall, that was when the combined Soviet, Cuban, and Angolan forces launched Operation Second Congress, embodying essentially the same military objectives and plan, but with substantially less military hardware and firepower, as this year's offensive. Operation Second Congress in 1985 failed miserably, and the Communist troops were routed.

However, Mr. President, this year the Communists were confident they could do better. After more than a year of planning and preparation, the Soviet Union shipped over 1 billion dollars' worth of heavy and sophisticated military hardware to Angola; they detailed Soviet General Konstantin Shagnovitch and his staff from combat experience in the Soviet-invaded country of Afghanistan. Even with all that, the Communists have suffered their largest military defeat in the Third World.

In late July, the massive Communist forces proceeded from their military base at Cuito-Cuanavale toward their objective, Mavinga, a key UNITA base. Traveling in three columns, the Communist forces planned to attack Mavinga in coordinated thrusts on its eastern, western, and northern fronts.

Think of it, Mr. President, the Communist military weaponry included more than 800 tanks; the most up-to-

91-059 O-89-30 (Pt. 26)

date SAM-8 Soviet antiaircraft batteries—with sophisticated radar and television optical equipment for tracking approaching planes—high performance Mig-23; and Mig-21 fighter jet aircraft; Mi-25/35 HIND helicopter gunships; Mi-8 troop-carrying helicopters; SU-22/Fitter tactical bombers; hundreds of armored personnel carriers; hundreds of trucks, several convoys of bridge building equipment, clusters of light and heavy artillery batteries—including the infamous BM-21 "Stalin Organ" rocket artillery batteries. All this and 16,000 Cuban and Soviet-backed Angolan troops.

Mr. President, the New York Times on September 14, reported that the 125,000-member combined army of Angolan and East bloc forces is one of Africa's most formidably equipped. The combined Communist army in Angola has over 37,000 Cuban troops, 5,000 Soviet and East German advisors, and 80,000 Angolan Troops.

Yet. Mr. President, despite this overwhelming superiority in numbers, armor, air power, fire power, and logistical equipment, UNITA completely devastated the Communist forces. It was the story of David and Goliath all over again. The column that was to attack Mavinga from the northern front was engaged by UNITA troops. The Communist troops were drawn into ambushes where UNITA utilized their high degree of mobility, and proceeded to cut to pieces the Communist armored column.

Mr. President, 70 percent of the Communist military equipment in that arm of the attack was either captured or destroyed. UNITA captured or destroyed over $700 million worth of Soviet military equipment.

As the battle wore on and the fighting became intense, the Cubans and Soviets were airlifted by helicopter out of the battle. The MPLA—the Communist Angolan troops—were then left to fight UNITA alone.

Needless to say, the Angolan Communist troops were mauled badly, and more than 300 MPLA troops defected to UNITA bringing valuable information and weapons. Communist troops who managed to escape were detailed to the other two columns that were supposed to attack Mavinga on the eastern and western fronts. However, once the other two columns of the attacking Communist force learned of the northern flanks' devastating defeat, the troops panicked.

In short, Mr. President, the combined Communist forces then turned tail and ran. They never even arrived at Mavinga, let alone get in position to attack the UNITA base.

Captured soldiers and Communist defectors confirmed that the Soviets were furious with their Angolan allies because some of the Soviet's best, top-of-the-line combat equipment was captured intact by UNITA.

Mr. President, UNITA has reported on the battle in some detail in its official communiques. UNITA reports that it captured in working condition:

33 tanks and armored vehicles;

206 military transport vehicles;

4 SA-8 missile systems (the Soviet's most advanced mobile Anti-Aircraft battery);

Numerous pieces of long range artillery (BM-14 and BM-21);

Hundreds of assorted individual rifles.

UNITA reports that it destroyed:

2,032 Communist troops, including 27 Soviets;

156 armored vehicles, tanks and river crossing equipment;

26 Combat aircraft, including five MiG-21 jet fighters; and

247 Military transport vehicles.

Mr. President, in a single ambush, UNITA captured 182 trucks that were packed with weapons. Over 5,000 Cuban and Angolan troops were wounded.

The military significance of this battle is the complete destruction of four Communist regiments. The Communists attacked with 12 regiments, and left another four in reserve. In other words, of the attacking troops, one-third were completely wiped out.

UNITA captured SAM-8, and SAM-13 antiaircraft missile batteries completely intact, along with their Soviet operators. UNITA has promised a Christmas present for their allies who are interested in the Soviet's latest ground-to-air, antiaircraft missile battery technology.

Most interestingly, UNITA shot down 5 Soviet-made, Cuban-flown Mig-23's and 17 other aircraft. They also captured 12 Soviet made "Stalin Organs," the 40-round mobile rocket artillery that are so devastatingly effective.

Mr. President, these details supplied by UNITA have received general confirmation by independent observers.

On November 22, the New York Times reported that "this is the third offensive by the Marxist government that Mr. Savimbi's troops have defeated in as many years."

The Washington Post, on November 2, reported that "in several weeks of fighting that subsided in mid-October, the rebels inflicted heavy losses on the Angolan Army, which is supported by Cuba and the Soviet Union."

In the same article, the Washington Post reported:

In a recent briefing, U.S. officials said Savimbi's forces seized from the Angolan Army "very substantial" quantities of recently delivered Soviet weapons—including dozens of tanks, armored personnel carriers, trucks "galore" and few SA8 and SA13 antiaircraft missiles.

The rebels, with some South African artillery and air support, also decimated the Angolan Army's 47th Brigade, and "seriously beat up" three or four other brigade sized units in the three-pronged attack on Mavinga, the gateway to UNITA's main stronghold in far southeastern Angola.

Mr. President, so complete was this military defeat, that the Soviets and Cubans have evacuated the very base from which the Communist forces launched their offensive in order to avoid being captured by the advancing UNITA troops.

However, while the Soviets and the Cubans have evacuated this base, they have left their fraternal Communist brothers, the Angolan MPLA troops, to face the UNITA forces from whom they have run away.

Mr. President, it is obvious that the Angolan troops would like also to retreat from the advancing UNITA forces, but they could not because the Cubans and Soviets control the use of the Communist air force and helicopters; and the Soviets and Cubans refuse to deploy them to evacuate the Angolans.

Needless to say, this betrayal has caused considerable resentment among the Communist MPLA troops. The fact that their Soviet and Cuban allies fled the battle zone in the face of the victorious UNITA troops' advance, and the fact that every major Communist offensive against Dr. Savimbi's highly mobile, highly trained, highly motivated, and highly experienced troops has resulted in defeat, has created a paralysis of the Communist Angolan troops will to fight and devastated their morale.

In fact, many of these Angolan troops are 16- to 19-year-old men who have been forced into combat at gun point. The Cuban troops are usually deployed behind the Angolans to protect the Cubans from being captured or killed in battle—and so they can shoot any Angolan troops that attempt to defect or retreat during combat.

Mr. President, intelligence from captured Cuban soldiers and documents reveals that the Cuban high command now feels that the battle in Angola is not winable.

Brig.-Gen. Rafael Del Pino Diaz, the former Cuban Air Chief of Staff in Angola who defected with his family to the United States this year, has published his insights in an interview "General Del Pino Speaks," published by the Cuban American Foundation. He says that while the casualty figures in Angola are kept secret, the estimated figure—before this most recent military defeat—was 10,000 dead.

Furthermore, he states that the attitude of the Angolan people toward the Cuban troops is increasingly hostile. Cuban troops in Luanda, Angola's capital city, regularly get scalding water and rocks thrown at them by angry crowds.

General Del Pino reported the Angolan troops are also hostile toward the Cubans. He said:

The Angolan military are tired of our presence, they realize the inferior quality of

our troops and that our troops at the most crucial moments always withdraw, as happened during the Cangamba battle—during Operation Second Congress in 1985. There, when the fight started we were side by side with the Angolans. The UNITA troops apparently withdrew. Then, after our helicopters withdrew our troops, UNITA attacked again and annihilated all the Angolan troops. This they feel strongly and they know the Cuban troops are not there to die with them, but only to sustain a group in power and maintain the Soviet Union in that strategically important area of the South Atlantic.

General Del Pino identified three reasons for the Cuban troop presence in Angola.

The first reason, he says, is that:

Angola is a strategic key for the Soviet Union in the Atlantic South. Cubans are being used there as a way to pay 10,000 million rubles of military equipment supplied by the Soviet Union to Cuba.

Still quoting the general:

The second reason is the vast unemployment existing in Cuba. We have sent thousands of Cubans to Angola, and the problem now is that with the present situation of unemployment it would be a catastrophe to return to Cuba those 40,000 Cubans.

The general continued:

The third reason is that Angola is now a place of punishment for high-ranking officers, people who have lost the confidence of Fidel, or have command problems of qualification for promotion. To Angola are sent demoted officers.

Mr. President, it may be useful to review some of the history of how 38,000 Cuban troops, complete with $4 billion worth of Soviet military hardware arrived in Angola.

In mid-1975, after the Portuguese colonial government decided to leave Angola, the three anticolonial factions, which included the MPLA and UNITA, agreed in the Alvor accords to create a pluralistic democracy, and hold national elections to determine the makeup of Angola's national leadership. National polls indicated that Jonas Savimbi, the leader of UNITA, would win overwhelmingly. However, the MPLA, realizing they did not have a chance in national elections, sent a courier to Moscow with an urgent request for Communist troops to fight Savimbi's UNITA. The Soviet Union readily complied, and airlifted 12,000 Cuban troops into Angola, and militarily took over the country.

Mr. President, even the United States State Department refuses to give official recognition to illegal MPLA regime in Angola.

Today there are 38,000 Cuban troops, and 2,500 Soviet military advisers in Angola, up from 12,000 Cuban troops in 1975. Angola has received more than a billion dollars in military aid from the Soviet Union in the past 12 months in preparation for a failed offensive. Angola has received a total of more than $4 billion in Soviet military aid since 1975.

Compare that, Mr. President, to the wails of anguish in the United States Congress when Ronald Reagan proposes mimimal assistance to the anti-Communist Freedom Fighters in Nicaragua. It is noteworthy that since Gorbachev came to power, Soviet military aid to the MPLA has escalated significantly.

The Soviets now operate submarines, destroyers and cruisers from ports in Angola, ports that are within range of two key sealanes, the oil routes around the Horn of Africa, and the NATO resupply routes across the Atlantic.

Mr. President, most of the world today decides what type of government it has by the force of arms and by who controls the media and police powers of the state. It is tragic that we in the West so often lose sight of the fact that to enhance and project the principles of freedom—against Communists who are ready to wipe out militarily political opposition by the force of arms and police power—we must help those who are fighting for freedom if we really want to prevent the slaughter of those who believe in the God-given rights of man.

I am proud to say that UNITA believes that the single most important factor of their recent military victory was the U.S.-supplied Stinger missiles. UNITA's superior mobility and communications enabled them to concentrate massive fire power on the bottled-up Communist troops, while the Stingers protected the artillery, antitank weapons and ground forces from air attack.

Mr. President, at least in Angola, the United States is at least minimally complying with the Truman doctrine, the historical father to the Reagan doctrine, which states that the United States has a moral obligation to :

* * * support free peoples who are resisting attempted subjugation by armed minorities or by outside pressure.

Angola qualifies in every sense under the Truman doctrine. UNITA is made up of "free people who are resisting attempted subjugation." The MPLA could be described as an "armed minority,"—less than 3 percent of Angola's population belongs to the MPLA party—and the 38,000 Cuban troops and 2,500 Soviet advisers clearly constitute outside pressure.

Mr. President, the United States must increase its aid to UNITA, and continue to do so until all foreign Communist troops leave Angola. We must be responsible to our principles, and continue to be sympathetic to the aspirations for freedom of the vast majority of the Angolan people. Living under the Communist MPLA government in Angola, is living under oppression, corruption and incompetence.

Human rights do not exist under the Communist totalitarian MPLA in Angola. Even the State Department agrees. It reports:

Political dissension is not tolerated. In fact, the Angolan people live under censorship, intimidation, and Government control of the media. Opposition views are not tolerated. The Government publicly emphasizes the importance of propagating atheism and has been critical of all religious activities.

In summary, the West must not ignore or forget the importance of UNITA's military victory and the global ambitions of the Soviet Union. The United States must not shrink from this opportunity to see the aspirations for the freedom of the Angolan people realized.

Mr. President, this military victory for the forces of freedom was possible because good men did not stand by and do nothing. The United States' $15 million in aid was used to defeat the Communist force that spent billions of dollars. The United States must continue to aid UNITA, and our military support for UNITA must increase.

Surely there is a clear lesson in all of this concerning the fight for freedom in Nicaragua in our own hemisphere.

UNITA stands for freedom, self-determination, free elections, and an independent and strong Angola. The United States must have the courage to defend these principles wherever brave, dedicated people are willing to fight and die for freedom. To hesitate is cowardice. To the extent that the brutal, bloody hand of communism prevails anywhere in the world, our own chances of preserving freedom at home are diminished.

BICENTENNIAL MINUTE

DECEMBER 29, 1833: BIRTH OF SENATOR JOHN J. INGALLS

Mr. DOLE. Mr. President, on December 29, 1833, 154 years ago this month, John James Ingalls was born in Middleton, MA, the son of a shoe manufacturer. Ingalls spent his early years in New England, and graduated from Williams College before joining so many of his generation in the great migration westward. In 1858 he arrived in the frontier territory of Kansas, which he made his home, and which made him its U.S. Senator, from 1873 to 1891.

From all accounts, Senator Ingalls was one of the sharpest tongued debaters ever to serve in this institution. His biographer wrote that Ingalls seldom took the middle ground. "He was inclined to annihilate critics, whether friend or foe, and compromise in debate was to Ingalls a form of surrender." Once he caught Senator Joseph E. Brown, a Georgia Democrat, changing the substance of RECORD on a previous exchange between them. Ingalls denounced this "falsifying and forgery," compared Senator Brown to a "thug stabbing a sleeping enemy,"

and branded his opponent as the "Uriah Heep of the Senate * * *: a sniveling political Pecksniff."

Senator Ingalls never hesitated to say what he thought. He decried British imperialism, calling that nation "a ruffian and coward, and the bully among the nations of the Earth." He dismissed those Republican reformers who supported the policies of Democratic President Grover Cleveland as political eunuchs. And, alluding to Cleveland, he charged that "There is no man in this country whose ignorance is so profound, whose obscurity is so impenetrable, and whose antecedents are so degraded that he may not justifiably aspire to a Presidential nomination—by the Democratic Party."

Kansans enjoyed John J. Ingalls' vivid style and elected him to three terms in the Senate, where he served as President pro tem. Today his statue stands in Statuary Hall, seemingly poised to do verbal battle with all foes.

THE NOMINATION OF MARVIN T. RUNYON, JR.

Mr. HUMPHREY. Mr. President, the nomination of a member of the Board of Directors to the Tennessee Valley Authority [TVA] provides one of the few opportunities for Senators to examine the activities of a multibillion dollar Federal agency that assiduously avoids any form of public scrutiny.

By means of its enacting legislation, the Tennessee Valley Authority Act of 1933, and subsequent amendments, TVA's powerful protectors in Congress have constructed a wall around the agency that effectively shields it from any outside examination. As they have for years, Members of Congress from the Tennessee Valley have stood watch at the gates of TVA, beating back any effort to effect change at the agency. The TVA Act itself has been transformed into a statutory icon, before which Members may only genuflect in unending adoration. Apparently unique in its legislative perfection, one may look at the TVA Act, but one may certainly not touch. Typical of the attitude is testimony recently delivered by the senior Senator from Tennessee before the Committee on Environment and Public Works:

> I referred earlier to those who are hostile to the idea of public power and to the Tennessee Valley Authority. I believe that there are many, both in the administration and even some here in the Congress, who feel that hostility very deeply. I also believe that these forces look at an opening of the TVA Act, perhaps, in a way that a fox would look at the unguarded door of a henhouse * * *.

Members from the Tennessee Valley have reason to be fearful of close examination and it does not lie in hostility toward them, their constituents or the concept of public power. The fact is the TVA Act is fundamentally flawed and those flaws have wrought disaster upon the Valley.

Consider the unique arrangements under the TVA Act:

TVA's three Board members may serve an unlimited number of 9-year terms;

TVA has secured access to the Federal Financing Bank, from which it is able to borrow funds without review;

TVA has amassed a huge debt to the Federal Government, the large portion of which it has no plans to repay;

TVA is exempt from the authorization process;

The TVA Board establishes its own electric rates and those decisions are not subject to regulatory review.

Taken together, these provisions make TVA a very powerful agency which is almost completely insulated from outside review or oversight. During the depression, TVA was intentionally invested with these extraordinary powers as an experiment. The purpose was to help a backward region of the country.

Later, however, TVA's powers as a self-authorizing, self-regulating authority wrought disaster. During the early 1970's, TVA's Board invested over $15 billion in a nuclear power program which has been plagued by safety-related problems, and, at present, is completely broken down. Not only have 8 of the 17 planned nuclear plants been canceled, but all 5 of the completed plants have been shut down due to what the Nuclear Regulatory Commission characterized as "a sustained and consistent history of poor performance * * *."

Mr. President, TVA is in deep trouble. As chairman of the Subcommittee on Regional and Community Development during the 98th and 99th Congress, I have had the opportunity to examine closely the mission and the structure of TVA. The act is flawed and needs to be changed, and I have introduced a bill proposing reforms.

Until legislative changes are made, a shroud will continue to envelope TVA. Until the shroud is lifted, the nomination of a member of the Board of Directors presents one of the few opportunities for the Senate to review not only the nominee, but the agency itself. In the words of TVA Director John Waters, "Each new appointment has the effect of reconstituting the Board by providing a new mixture of strengths and a new perspective on issues." That is why this debate in important.

Mr. President, in my view, it is imperative that the next Board member at TVA express at least a minimal interest in considering some of the fundamental reforms that, I believe, are in order. On several occasions, I made this point to the White House while they were searching for a replacement.

Earlier this week, I submitted questions to the nominee, Marvin Runyon. I regret to report to the Senate that his responses reflect little interest in getting to the root of the problems at TVA. Further, his background as an auto company executive, though impressive, hardly lends itself to addressing effectively the day-to-day challenges of the Nation's largest electric utility, much less reviving a defunct nuclear power program.

Mr. President, I was particularly disturbed to learn that the nominee refused to respond to requests made by a large grassroots organization in the Tennessee Valley, the TVA Board Appointment Coalition. The group, which is comprised of 42 organizations, was formed in 1983 to review candidates for the Board. The organization recognizes a Board vacancy as a unique opportunity to review policy at TVA.

According to Mr. Runyon, he refused to provide answers to the TVA Board Appointment Coalition because he felt "it is only proper for the Members of the Senate Environment and Public Works Committee to hear my views directly * * *." Interestingly, during the last search for a Board member, the eventual nominee and present Director, John Waters, did meet with the group. When do these 42 organizations get to hear Mr. Runyon's views directly?

I do not question the strength of Mr. Runyon's management capability. His record as a manager is well proven through decades of experience in the automobile industry. I do question Mr. Runyon's perspective on issues crucial to the success of TVA.

Mr. President, I caution my colleagues not to diminish the importance of this nomination by confirming Mr. Runyon without careful consideration of his qualifications.

I ask unanimous consent that a copy of my questions to Mr. Runyon, and his responses, be printed in the RECORD.

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

QUESTIONS BY SENATOR GORDON HUMPHREY

Question 1. I understand that you have been unwilling to meet with the TVA Board Appointment Coalition, a coalition of 42 concerned organizations in the Tennessee Valley, prior to your nomination hearing before the Environment and Public Works Committee.

1.a. Is this accurate?

Answer. I met with leaders of the Tennessee Valley Energy Coalition in Nashville last month in a listening session they requested, and was glad to learn their perspective on issues facing TVA. The Tennessee Valley Energy Coalition is an important part of the TVA Board Appointment Coalition.

1.b. If yes, what is the basis for your decision not to meet with the TVA Board Appointment Coalition?

Answer. I never objected to taking part in a listening session to become familiar with their views. My concern was about the

timing and appropriateness of addressing complex TVA issues through a questionnaire format prior to the confirmation hearings. I believe it is only proper for the members of the Senate Environment and Public Works Committee to hear my views directly, rather than through a third party.

Question 2. Do you believe that the citizens of the Valley should have input in the decision to nominate a member of the TVA Board of Directors?

Answer. Citizens of the Tennessee Valley do have such input through their elected officials. During the years I have lived in the region, I have learned that citizens of this area take into serious consideration a candidate's views on TVA during the voting process.

Question 3. As Chairman of the TVA, how would you involve the public in the decision-making process?

Answer. TVA is a public agency, and it must earn the confidence and support of the public in carrying out its mission. TVA's historic commitment to public involvement is in harmony with my own philosophy of participative management. I intend to take full advantage of the opportunities to gain maximum public involvement through open Board meetings, listening sessions about critical issues, and meetings with individual citizens and constituency groups.

Question 4. To whom do you feel that the TVA Board of Directors is accountable? In what respect do you feel that the TVA should be held accountable to the public for its policies?

Answer. The TVA Board is accountable through the public's elected representatives. Congressional committees carry out their responsibilities for the oversight of a wide range of TVA programs. The location of TVA's headquarters in the region it serves rather than in Washington provides an additional avenue of accountability. Board members literally have to live with their decisions, and they can more directly obtain public input regarding those decisions.

Question 5. In 1986, the TVA Board established an Office of Inspector General to promote efficiency and to reduce fraud. The Inspector General is appointed by the TVA Board.

5.a. Do you believe that the Inspector General at TVA should be appointed by the President as is the policy for appointment of Inspector Generals at most large federal agencies?

Answer. I have a limited familiarity with TVA's Office of the Inspector General and an even more limited familiarity with Inspectors General elsewhere in government. I have been told that the reason for the present arrangement at TVA is to provide a solid framework that safeguards the IG's authority and independence while being consistent with TVA's corporate mission and structure. I will need more opportunity to observe the operations of the Inspector General's office before I can venture beyond that impression, however.

5.b. Do you believe that the activities of the Office of Inspector, the congressional oversight committees and the Board itself are adequate to provide for the efficient operation of TVA?

Answer. The TVA Board should be responsible for the efficient operation of a clear, purposeful, and positive management system at TVA. The public's interests are protected by the Inspector General and congressional oversight, and the current protections of that kind may be adequate, but effective management is essential for quality and productivity.

Question 6. Do you believe that TVA's exemption from the Congressional authorization process should be repealed so that TVA programs will be subject to the same Congressional scrutiny as programs under other federal agencies?

Answer. I am attracted to the original intent expressed by President Roosevelt that TVA should be allowed to operate with the "flexibility and initiative of a private enterprise," rather than facing every one of the constraints in management that apply to Federal agencies generally. I understand that the exemption from the authorization process was part of that flexibility provided to TVA.

At the same time, I recognize that TVA must be accountable to the Congress, the ratepayers of the region, and the Nation's taxpayers. I would be able to give a more substantive comment on this question when I have the opportunity to become more familiar with Congressional review processes.

Question 7. What are your views regarding proposals to restructure TVA in order to separate the policy-making apparatus from the day-to-day management? Do you object to opening up the TVA Act?

Answer. Whether or not the TVA Act should be amended to separate these two functions is a matter I would rather comment on after gaining experience at TVA and seeing first-hand how policy-making and management operate in that environment.

Question 8. What are your views regarding proposals to expand the three-member, full-time board to a larger, part-time board?

Answer. Many people believe the structure of the TVA Board has worked well in the past. TVA has accomplished many remarkable things with that structure.

My interest in serving on TVA's Board, and my understanding of my responsibilities on that Board, is based on the premise that the Board will be made up of three full-time members, each serving a nine year term. That is what I have agreed to.

I will know better what works at TVA after I have had time to serve on the Board. Without that direct experience, I could only speculate.

Question 9. Do you think that nine years is a reasonable term for TVA board members? Do you believe that the number of terms a board member can serve should be limited? Please comment on your views regarding a system under which the term for a Director would be reduced to three years, a new board member to be nominated by the President each year.

Answer. I am agreeing to serve a nine-year term. From my conversations with other Board members, I gather this length of term is required for first getting to know the diverse mission of TVA, setting a course, implementing plans, and working with newer board members as they come into service.

Question 10. Have you considered the recommendations of the Southern States Energy Board regarding creation of a formal rate review process? Please comment on the advisability of rate hearings for TVA's power program.

Answer. As I understand TVA's operations, public rate review meetings already are part of the process of determining the need for rate increases. I believe the TVA Board should seek pertinent information from the widest range of knowledgeable sources before acting on rate recommendations.

Question 11. Do you believe that TVA's power decisions should be subject to regulatory review by allowing state utility boards to review utility-related decisions?

Answer. I believe that TVA Board members must be committed to keeping power rates as low as possible, and must have access to the necessary data to make informed rate decisions that take into account the impact on the public as well as the power system. If those conditions are met, I believe the TVA Board can set rates more economically than would be the case if such decisions were delayed by another rate review process conducted by the separate state utility boards.

Question 12. In his testimony before the Environment and Public Works Committee on December 9, Governor Baliles stated that TVA is "a great national resource." Please comment on the tension resulting from TVA's simultaneous role as a "national resource" and a regional power system.

Answer. I firmly believe that an adequate supply of affordable electric power is an important resource for economic growth and development, in much the same way that a developed and well managed river system is a resource for economic growth. Therefore, I see electric power as one of several important tools that TVA has to apply to its single, overriding mission of promoting the economic development of the Tennessee Valley region.

What some see as TVA's dual roles of economic developer and regional power supplier, I see as a single, integrated program made up of several different parts. Each part has an appropriate role to play in the total program. Together, they add up to a significant package of tools that, when skillfully applied, can bring jobs and a higher standard of living to the people of the region.

Question 13. The sulfur dioxide (SO_2) emissions from TVA's fossil-fueled plants have been reduced significantly over the past few years and TVA is currently conducting clean-coal technology demonstration projects. Do you believe that TVA's SO_2 emissions should be further reduced?

Answer. Environmental quality must be maintained and enhanced in the Tennessee Valley and the nation. This is an essential ingredient in providing a quality lifestyle for the people. At the same time, the cost of electric power must remain affordable—another essential ingredient in providing a quality lifestyle.

The accomplishment of these twin objectives provides TVA with one of its major challenges. I will be giving serious study to the best ways of achieving these objectives in the months ahead.

Question 14. Do you believe that federally supported funds, power ratepayer funds, or a combination of both should be expended to resolve the dissolved oxygen problem in the vicinity of TVA's hydroelectric facilities?

Answer. I am aware that TVA is now conducting a comprehensive review of its reservoir system operations, with involvement from the public, other federal and state agencies, and outside experts. As I understand it, this study will help provide a sound basis for deciding this issue.

Question 15. What are your views regarding the role of energy conservation in supplying power to the Valley?

Answer. From the standpoint of the consumer, energy conservation provides a way for consumers to gain some degree of control over their energy costs—the less they use, the less they pay. I understand that TVA has one of, if not the best, program in

the nation in helping consumers take advantage of potential energy savings. I support this effort.

From the standpoint of the utility, energy conservation offers equal advantages. It can delay the need for expensive new plants and equipment. It also can be used to level out daily and seasonal demands and lower operating costs. Such measures make good business sense.

So, in many ways energy conservation is a "no lose" situation. I support it fully, while reserving judgment on specific applications.

Question 16. Senator Breaux recently offered an amendment to the budget reconciliation bill to authorize TVA to spend power revenues to pay salaries that exceed limitation to not more than 25 key employees. In your opinion, is this amendment sufficient to deal with the constraints of the federal pay cap?

Answer. TVA's Board of Directors should have the authority to set TVA salaries because TVA is in competition with every other public utility. They must have the capability to pay their people commensurate salaries. TVA does very well, so I'm told, at lower levels in attracting bright young people. They work there for three or four years, and then they move into higher paying utilities. I think Senator Breaux's statement is going to be a tremendous asset to the TVA Board and to TVA because it will enable TVA to go to people and say: "How would you like to work for TVA for the rest of your life?"

Question 17. Do you believe that sound policy dictates that TVA continue to borrow through the Federal Financing Bank rather than through the private sector? Please comment on the relative merits of forcing TVA to borrow exclusively from the private sector.

Answer. I believe it is important for TVA to maintain the marketability of its power bonds and intend to give a higher priority to a close review of the power system's financial condition. I have not seen any information that would justify adding to ratepayer costs by withholding TVA's access to the Federal Financing Bank, which was created to coordinate borrowings for independent agencies and to hold down their borrowing costs.

Question 18. Of the 17 nuclear units which TVA intended to construct, eight have been cancelled, four are under construction and five have been shot down due to safety-related problems. TVA has invested over $15 billion in this failed program. What are some of your ideas regarding the proper course of action necessary to get TVA's nuclear program back on its feet?

Answer. TVA's current plans for restarting its nuclear units are generally responsive to immediate needs. In the near future, TVA should update its restart plans with several factors being considered; such as, projected power needs for the next decade and beyond, the capital cost of putting nuclear units back into operation, and the O&M costs of running the units once they are brought online.

Question 19. To date, TVA has borrowed close to $16 billion from the federal government. Many of these payments, made in the form of 25-30 year bonds, come due in the late 1990s or the early 21st Century. Do you believe that TVA should be required to repay this debt? Please comment on your plans for retiring TVA's debt to the Federal Financing Bank.

Answer. There is certainly a rationale for retiring the $4.5 billion investment related to nuclear projects that were subsequently cancelled. I understand that TVA has such a plan in place, and is making annual investments in a bond retirement fund that will reach that amount. However, before considering any proposals beyond that point I would want to follow through my intention to study the power system's financial condition in detail.

Question 20. Regarding TVA's current bond ceiling of $30 billion, do you believe that this bond ceiling should be reduced?

Answer. From past experience, debt ceilings in general do not seem to be a very effective substitute for efficient management and prudent financial policies. We will continue to closely monitor and require economic justification for the use of funds from the FFB.

THE SIEGFRIED & ROY ROYAL WHITE TIGERS OF NEVADA

Mr. REID. Mr. President, world-renowned illusionists Siegfried & Roy, whose success as entertainers on the Las Vegas Strip, has given new meaning to the word "phenomenal." In addition, their commitment to ensuring the preservation and perpetuation of the rare and endangered white tiger species represents a significant contribution to mankind. For these reasons, the two great entertainers marked a major milestone this week when their rare snow white tiger, Sitarra, gave birth to three precious white tiger babies. The cubs' birth is the second in as many years for Sitarra, one of only three snow white tigers known to exist in the world and the only one to have given birth. She is part of a growing line of the endangered species which has been nurtured and perpetuated by two of Las Vegas' favorite sons.

Long committed to the preservation of exotic wildlife, Siegfried & Roy have undertaken the considerable task—as their personal guest—of saving the white tiger from extinction. It is their goal to ensure that these rare jewels of nature not be allowed to fade into the history books, like the do-do bird and countless other extinct wildlife, for our children only to see through pictures in future years. Instead, the two preservationists work to replenish and perpetuate the white tiger species as living proof of the magic of nature so that future generations worldwide will have the opportunity to share in their majestic beauty.

The birth of the three new white tiger cubs is a giant step in that direction for Siegfried & Roy. It represents not only a personal success for Siegfried & Roy, but is also a testament to their method of providing a loving, nurturing environment in which the animals feel comfortable to reproduce.

It is, therefore, with great pride that I enter into this RECORD the birth of three new rare white tigers to Siegfried & Roy's white female tiger, Sitarra. I commend the famed entertainers for their contributions toward saving the endangered white tiger species through the Siegfried & Roy, Royal White Tigers of Nevada perpetuation program.

HOUSING, COMMUNITY DEVELOPMENT, AND HOMELESSNESS PREVENTION ACT

Mr. CRANSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 825.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 825) to amend and extend certain laws relating to housing, and for other purposes.

(The amendment of the House is printed in the RECORD of June 17, 1987 beginning at page 16456

AMENDMENT NO. 1376

(Purpose: To propose a substitute)

Mr. CRANSTON. Mr. President, I move to concur in the amendment of the House with an amendment that I send to the desk. It is a very small amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mr. CRANSTON] proposes an amendment numbered 1376.

Mr. CRANSTON. 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 text of the amendment is printed later in the RECORD under amendments submitted.)

Mr. CRANSTON. Mr. President, I am pleased that the Senate is able to consider S. 825, the Housing and Community Development Act of 1987. And I am delighted to be able to join with Senators D'AMATO, DOMENICI, and GARN in offering a package of amendments to break the deadlock that has delayed Senate action on the housing bill for so long.

A great deal of work has been done in recent weeks to arrive at an excellent compromise. But now we have a housing bill that is acceptable to Senators on both sides of the aisle and is acceptable to the administration.

House Banking Committee members have worked extremely hard for the past several years to achieve a responsible housing bill. They have done their job very well on the House side. I intend to work very closely with them in the months ahead on housing matters.

I have talked with House Banking Committee Chairman ST GERMAIN. He has advised me to proceed with action on the bill, and that it has cleared on their side. They want to act on it tonight. And it is with that understand-

ing that I offer this compromise to the Senate.

I want to commend Senator PETE DOMENICI and Senator JAKE GARN for the leadership they have shown in producing a compromise that is responsible and ensures that we will at long last enact a housing bill.

My appreciation also goes to my colleagues on the Banking Committee who worked long hours to achieve this solution in a spirit of bipartisan cooperation—the ranking minority member of the Housing Subcommittee, Senator AL D'AMATO with whom it is a great pleasure to work with on this and other matters, as well as Senator DON RIEGLE, Senator PAUL SARBANES, Senator ALAN DIXON, and Senator JOHN HEINZ.

This achievement would not have been possible without the commitment and effort of House Banking Committee Chairman FERNAND ST GERMAIN and House Banking Subcommittee Chairman HENRY GONZALES, Congressman CHARLES SCHUMER and Congressman BARNEY FRANK as well as Congressman CHALMERS WYLIE, Congresswoman MARGE ROUKEMA, Congressman STEVE BARTLETT, and other members of the House Banking Committee.

Mr. President, for the past year a number of Senators have worked very hard on a bipartisan basis to develop a responsible housing bill that makes important reforms which are needed this year. The product is one of which we can be proud.

The housing bill will help American families retain the dream of homeownership by making home mortgage credit available on a more reliable and affordable basis in every region of the country. The housing bill will prevent thousands of poor people—many of them elderly—from being forced out of their apartments in the next few months with little chance to find decent, affordable housing. The bill will make a number of urgently needed reforms that will help States and local governments provide their citizens with affordable housing, improve the quality of neighborhoods and attract good jobs.

The House-Senate conference committee produced a housing bill that was fiscally restrained—one that was well below the budget resolution targets. The bill won passage by the House on an extraordinary vote of 391 to 1. And it has strong, bipartisan support in the Senate as well.

In the past month, after the Senate failed to agree on a way to proceed with the housing bill and on many of its provisions, a number of Senators determined to go to work and find a way to get a housing bill. The result is this compromise amendment, which removes virtually all of the objections that were raised on the Senate floor.

In general, our amendment resolves all budgetary issues related to the housing bill that emerged from conference. It eliminates or defers several programs that the administration has opposed. And it removes objections that have been raised with regard to other provisions in the conference agreement.

I want to mention the key changes:

First, our amendment would refine language where necessary to make it clear the bill would authorize $15 billion in budget authority for Federal housing and community development programs in fiscal year 1988, which was the decision of the House and Senate conferees. That is a reduction of about $600 million below levels assumed in the congressional budget resolution.

Second, our amendment would eliminate all provisions that create direct spending and all provisions that prohibit the rescission of recaptured funds.

Third, our amendment would reduce the second year authorizations from the levels in the conference agreement by adopting the 2-percent inflation adjustment assumed in the budget summit rather than the 4-percent factor adopted in the housing conference.

Fourth, our amendment would sunset the Nehemiah homeownership grant program at the end of fiscal year 1989, which will enable lower income working families to buy homes in newly constructed city neighborhoods, and it would limit authorization for the program to $25 million in fiscal year 1988 and $100 million in fiscal year 1989.

Fifth, our amendment would restrict displacement assistance under the community development block grant [CDBG] and urban development action grant [UDAG] programs by requiring special rental assistance only for low-income tenants who are directly displaced as a result of luxury projects and requiring replacement of housing units only in areas with a shortage of low-income housing.

Sixth, our amendment eliminates the provision that would have required abatement of lead-based paint hazards in privately-owned housing if HUD fails to submit a workable abatement plan by a date specified in the act.

Seventh, our amendment authorizes a 2-year pilot program to test the effectiveness of vouchers in rural areas.

Eighth, our amendment would clarify existing law governing the treatment of illegal aliens in assisted housing by giving local governments the discretion to continue providing housing assistance to families in which the head of household or spouse is a citizen or legal alien. The amendment would also give local governments the discretion to defer the termination of assistance where that is necessary to permit the orderly transition of tenants to other affordable housing.

In short, our amendment resolves all of these major concerns that were raised against the housing bill conference report several weeks ago. It removes a number of other controversies as well.

It eliminates a proposed new grant program to transfer ownership of rural rental housing to nonprofit organizations and public agencies.

It eliminates or reduces the effect of provisions that would permit certain public housing tenants to pay less than 30 percent of their income for rent.

It terminates the section 235 homeownership assistance program at the end of fiscal year 1989, as requested by the administration.

It terminates the HODAG Program at the end of fiscal year 1989, as requested by the administration.

It strikes a provision that would have permitted salaries of former CETA workers to be eligible expenses for public housing operating subsidies.

It eliminates the provision authorizing direct loans to prevent defaults in FHA insured rental housing.

It imposes a 2-year sunset on a provision to permit the Federal flood insurance program to move structures back from the danger of imminent collapse.

It makes it clear that, if a public housing agency asks for a review of its operating subsidy level, the review might result in a reduction as well as an increase.

It makes clear that the "voucher adjustment pool," which is intended to assist localities experiencing unusually high rent increases, would be a set-aside from available funds.

This amendment offers the Senate a final chance to pass a housing bill in this session of Congress. I urge my colleagues to join in passing it and sending this responsible housing bill to the President's desk.

Mr. President, the compromise amendment would restrict displacement assistance under the Community Development Block Grant [CDBG] and Urban Development Action Grant [UDAG] programs by requiring special rental assistance only for low-income tenants who are directly displaced as a result of development projects. The amendment would also limit the requirement for providing replacement housing by exempting those areas where the Secretary finds there is an adequate supply of low and moderate income housing.

I want to make it clear the intent of this provision is that a locality would be required to replace lost low-income housing units with decent, safe and sanitary units that are affordable to low and moderate tenants for 10 years, unless the Secretary finds that there is available in the area an adequate

supply of habitable affordable housing for low and moderate income persons. The Secretary shall base his determination upon objective information, which shall include (1) the supply of vacant existing housing meeting the Section 8 quality standards with rents that are affordable to low and moderate income persons; and (2) the number of eligible families on the waiting list for public housing or housing assisted under Section 8.

In making this determination, the Secretary should provide an opportunity for interested parties, including organizations representing tenants, non-profit organizations and others, to provide information which the Secretary should consider in making this determination.

The term "area" in this section would mean the area within the political boundaries of the grantee unless the Secretary finds that such boundaries are inappropriate in the case of a particular project, in which case, the Secretary would have the discretion to define the boundaries of the area to be considered.

Mr. President, Senate passage of this bill is made possible in large part by a remarkable staff effort that was carried out on a bipartisan basis over a period of many months. While representating Senators and Members of the House with differing positions on elements of the bill, numerous staff people have worked with an unusual degree of professionalism, dedication and cooperation. They deserve congratulations for a job very well done.

I extend my deep, personal appreciation to members of my own staff on the Housing Subcommittee: Staff Director Don Campbell and Subcommittee Counsel Bruce Katz as well as Lionel Collins, Andrew Valentine and Kim Tenhor. All, led by the remarkable Don Campbell, performed outstandingly.

I also thank other Senate staff members who deserve special commendation: Fred Millhiser, Sylvia Thompson, Ted Rozeboom, Bob Malakoff, Grace Morgan, Ed Rogers, Ed Redfern, Joe Trujillo, Carol Hartwell, Mary Dwyer Pembroke, Jan Maxfield and Tony Coppolino. Frank Burk was the excellent legislative draftsman who was responsible for drafting many of the provisions of the bill and without whose patience and skill we could not have achieved this moment.

The House staff, under the masterful leadership of Gerry McMurray, is unusually competent and committed to enactment of sound, sensitive legislation. They, too, have our heartfelt appreciation.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I would like to take this opportunity to thank the distinguished manager and chairman of the Subcommittee on Housing, Senator CRANSTON, for continued dedication to seeing to it that the goal of a housing bill that did something particularly for working families, those who are in need of housing, was accomplished. This is the first time in 7 years that we will have a housing bill.

I think Senator CRANSTON deserves our deep appreciation for his tireless efforts and for the staff. Many times we take credit for legislative initiatives and here I would like to pay tribute to the staff, Jan Maxfield, Mary Dwyer Pembroke, Carl Hartwell, Don Campbell, Bruce Katz, Lionel Collins, Tony Coppolino, Joe Trujillo, Grace Morgan, Tim Tenhor, and Andrew Valentine—all of these people, Republicans and Democrats on both sides of the aisle, worked tirelessly.

There is another person, Mr. President, who I would like to take an opportunity to make a very special mention of. He is not on the Banking Committee. He is not on the Housing Subcommittee. But that did not stop Senator PETE DOMENICI from coming to the floor and to help breech the gap as it related between the legislative side and the administration, to help forge the kinds of compromises in rural housing as it related to vouchers which made it possible for the House to accept some of the innovations that the administration has been fighting for.

So let me take this opportunity to say very clearly were it not for his leadership and his tireless efforts we would not be at this point.

I thank the Senator for his work and that of his staff.

I would like at this time, Mr. President, to add the name of Senator WILSON as a cosponsor to this legislation.

And I thank the Senator for his work, and another one of our colleagues, Senator ARMSTRONG, who had certain objections—I think they were very valid objections—to the original conference report. And were it not for his spirit of compromise, we could not have reached the point today that we have reached and I think putting forth a good, solid bill. Reasonable people may disagree on certain items. I want the body to know that Senator ARMSTRONG was tireless in the pursuit of those goals that he thought were important, helped bring about substantial changes that will inure to the benefit of the program, and yet was willing to yield on certain points that many of our colleagues in both the House and Senate thought were important. We are very appreciative not only for the Senator's moving in that direction, but for his leadership in this area.

Mr. President, as the Senate begins consideration of this new, compromise package of S. 825, the Housing and Community Development Act of 1987, I want to take this opportunity to commend the chairman of the Housing Subcommittee, Senator CRANSTON, for his able stewardship in reporting out this bill.

In addition, I would like to thank my colleagues, Senator DOMENICI, ranking member of the Senate Budget Committee; Senator ARMSTRONG; and Senator GARN, ranking member of the Banking Committee, for their cooperation in working on a bipartisan housing package that I believe will gain the support of the Senate and the House. It is time for a housing bill to be supported by Congress and enacted into law.

This compromise package is a new bill. Although it is based on the original conference report of S. 825, we have made some major adjustments to the bill. In an effort to accommodate every single objection made on the floor of the Senate a few weeks ago, Senator CRANSTON and I have designed a package that we believe will be acceptable to this body. We have spent weeks negotiating with Senators on both sides of the aisle to come up with a package that is acceptable to this body. Senator DOMENICI has been extremely helpful in this process, and I have appreciated his commitment to getting a housing bill passed through the Senate in 1987.

The adjustments to this bill are threefold: First, we have eliminated all budgetary problems with the bill; second, we have eliminated or deferred certain programs; and third, we have removed objections which have been raised to controversial provisions in the bill.

This compromise package authorizes $15 billion for fiscal year 1988. This is $900 million lower than the House passed bill, $600 million lower than the Senate passed bill, and $300 million lower than a fiscal year 1987 appropriations freeze.

Budgetary objections to the original conference report focused on approximately six specific provisions. I will briefly address how we have eliminated the budgetary objections relating to each of these provisions.

First, any direct spending in the bill made the bill subject to a point of order. Consequently, we have eliminated all direct spending from the bill. The new package drops section 523, a provision which permits certain cities to retain urban renewal land sale proceeds. In addition, the new package limits other direct spending items to amounts provided in appropriations. These adjustments free the bill from certain violations of the Budget Act.

Second, the new package limits new credit authority by making it available only to the extent or in such amounts as may be approved in appropriations.

Third, fiscal year 1989 budget authority for the bill is reduced in the new package to conform with the 2-percent inflation adjustment assumed in the budget compromise.

Fourth, language has been adjusted to make clear that a number of items that were double counted by OMB—like amendments—are included in the overall $15 billion funding level. This clarification accounts for $1.8 billion that OMB claimed was not accounted for in the initial conference report package.

Fifth, three items that were authorized "at such sums as may be necessary" were either eliminated or authorized at specific funding levels. Nehemiah funding, which was included at such sums, would be authorized at $15 million for fiscal year 1988 and $100 million for fiscal year 1989. Emergency Housing Counseling would be authorized at $5 million for fiscal year 1988 and 1989. The solar bank would be eliminated.

Sixth, the initial conference report contained a provision which allowed, subject to appropriations, recaptured funds from the 235 program or from the sale of GNMA-owned mortgages to be used for housing preservation. The new package eliminates this provision.

Along with eliminating budgetary objections to the bill, the compromise package also eliminates or defers certain programs. When the conference report came to the floor of the Senate a few weeks ago, a number of Senators expressed concern about new programs. In an effort to address these concerns, our new compromise package outright eliminates or defers a number of programs.

First, the new bill eliminates a provision that would permit certain localities to recognize additional eligible costs relating to CETA workers within public housing operating subsidy funding totals. The provision would not have increased expenditures because public housing operating subsidies are capped at an overall funding level. Opponents, however, perceived this provision to be controversial. Consequently, we have dropped this provision from the new package.

Second, the compromise package eliminates section 264, a provision which provides direct loans to troubled projects in order to prevent defaults.

Third, three provisions relating to public housing rents were eliminated or tightened. Section 102(c), a provision which provides discretion for the Secretary to set rents at less than 30 percent of income in certain elderly housing projects, has been dropped. The transition for ceiling rents to take effect has been reduced from 5 to 3 years. A provision allowing rents to be phased-in has been dropped.

Fourth, the compromise package eliminates a new grant program which was designed to address the rural prepayment problem. Because opponents of this provision objected to a Federal grants provision, the new package substitute loans to meet the needs of providing continued low income housing in rural areas. Other provisions on rural rental housing displacement prevention, including the right of first refusal by nonprofits and public agencies, were retained. The compromise package requires separate appropriations for any loans financing the transfer of ownership to nonprofits.

Fifth, the Nehemiah Program has been significantly tightened in order to provide Congress the opportunity to assess the effectiveness of the program. In the compromise package, first, a 2-year sunset has been imposed; second, authorization has been reduced from $150 million for fiscal year 1989 to $25 million for fiscal year 1988 and $100 for fiscal year 1989; and third, eligibility has been limited to 100 percent of area median income, with only 15 percent of the funds able to be used for individuals with incomes between 100 to 115 percent of area median income if the Secretary deems it necessary to make the project work.

Sixth, and somewhat related to the previous provision, is the termination of the existing section 235 Homeownership Program. This program currently provides mortgage insurance and interest subsidy for homebuyers. By eliminating this program, the Nehemiah Program will not be a new program. It will be replacing an old program. Thus, we will be getting an impotent program like the 235 program off of the books, and we will be giving the Nehemiah Program a 1-year opportunity to prove to Congress whether it is an effective way to address the homeownership problem in this country.

Seventh, the compromise package terminates the HODAG Program at the end of fiscal year 1989.

The final category of adjustments that have been made to the compromise package entails removing various objective or controversial provisions. Four key provisions fall into this category. I am confident that my colleagues will be comfortable with the way that we have tightened these provisions.

First, perhaps the most objectionable provision in the entire conference report related to providing assistance to individuals who are directly and indirectly displaced as a result of a UDAG or CDBG project. This provision was adamantly opposed by cities and mayors around the country.

The compromise package radically alters this provision in a number of ways. The League of Cities and Conference of Mayors now support this provision. The new compromise of this provision, first, eliminates assistance for "indirect displaces," and, second, removes requirements for replacement of demolished units in localities where the Secretary finds there is a sufficient supply of low and moderate income housing.

Another major issue of contention related to the lead-based paint provision. Like the antidisplacement provision, we have gone to substantial lengths to alleviate controversial aspects of this provision. The new provision, first, eliminates mandatory abatement of single family housing as a penalty for late release of the report; second, eliminates manditory testing and abatement of section 8 housing; third, requires HUD to meet its goal of removing hazardous paint from public housing within 5 years under the CIAP Modernization Program; fourth, requires HUD to complete study of cost-effective ways to deal with problems in privately owned housing, including federally assisted multifamily housing; fifth, enforces release of the report by prohibiting HUD commitments or expenditures for any other policy development and research project during the period in which the report is overdue.

Third, the new package clarifies that the review process in section 118 could result in lower subsidy payments as well as increases.

Fourth, the compromise imposes a 2-year sunset on section 544 of the conference agreement relating to structures under threat of imminent collapse. This would provide time for Congress to ensure that this item will not lead to increased costs to the Federal Government.

Fifth, this package authorizes a 2-year Farmer's Home Demonstration Program in up to 5 States with up to 7,500 vouchers in each of fiscal years 1988 and 1989. The demonstration sunsets at the end of fiscal year 1989.

Sixth, the package tightens the provision in the conference report which would have allowed all illegal aliens currently living in public housing to continue to live in federally subsidized housing. This package tightens this provision by giving the local public housing authority discretion to make exceptions for mixed families and to defer the termination of assistance for 6-month periods for up to 3 years.

These changes have appeased the budgetary concerns of the chairman and the ranking member of the Senate Budget Committee as well as the ranking member of the Senate Banking Committee. Senator CRANSTON and I have gone far out of our way to accommodate all of the many objections made on the floor a few weeks ago and, in reality, we have gone even further to address concerns that were not even specifically brought up on the floor.

This package is a reasonable package, it is a responsible package, and it

is a package that promotes responsible Federal involvement in housing and community development during difficult budgetary times. I am hopeful that my colleagues will support this significant legislative effort.

Mr. President, Senator GARN again was one of those who was tireless in seeking a compromise that would result in this package.

Mr. GARN. Mr. President, I rise in support of the housing amendment before us this evening.

This legislation is the result of a lot of dedicated hard work, to achieve a responsible and rational housing authorization bill this year.

Compromises have been reached in many areas of the bill. Direct spending programs have been cut from the bill, and very objectionable provisions have been made less objectionable.

This legislation is not perfect. However, the bill has one provision of paramount importance, it gives permanent insurance authority to the FHA mortgage programs. By making FHA permanent, first time homebuyers can achieve their American dream.

It was our intention to craft a bill that could pass the Senate and the House and ultimately be signed into law by President Reagan. In my opinion we've achieved that goal.

Mr. ADAMS. Mr. President, I rise to congratulate the subcommittee chairman, Mr. CRANSTON, for his distinguished leadership on this important piece of legislation and to offer my special thanks for his efforts to deal with the provisions that would improve the energy efficiency of manufactured housing built in this country.

This is an extremely important issue in the Pacific Northwest where these structures account for approximately 30 to 40 percent of new electricity heated homes built in this region. The standards that we epxect to come out of this legislation should save my region alone approximately $500 million over the next 20 years.

I want to take this opportunity to clarify my support of the important features related to section 569 of S. 825.

It is my understanding that the Department of Housing and Urban Development will conduct a life cycle cost analysis, taking into consideration the cost of energy efficient measures and energy savings from those measures over the effective physical life of the structure and that this important analysis is to be completed within 1 year of this legislation.

Mr. CRANSTON. I thank the Senator from Washington for his support and assistance on this important legislation. The Senator is correct that the purpose of this section 569 of S. 825 is to require the Department of Housing and Urban Development to complete a life cycle cost analysis to develop national standards for the energy efficiency of new manufactured housing. This important analysis is to be completed in 1 year.

Mr. ADAMS. I thank the distinguished subcommittee chairman from California. This is a very important effort and we need to begin moving as quickly as possible.

Mr. D'AMATO. Mr. President, let me take a moment in outlining some of the provisions of this legislative effort before I yield to Senator DOMENICI for the purpose of making remarks.

Let me tell you, first, this bill is unique in that it is $300 million under the appropriated levels for this year, $300 million under, and yet in terms of what it accomplishes, it provides permanent insurance authority for the FHA programming; permanent insurance authority, and would that not be a pleasure instead of having us turn the spigot down and close off that stream of available housing insurance? And without FHA insurance, why, those loans that are made, $1.3 million annually for working families, just would not be.

It raises the level of the mortgage limits from $90,000 to $101,250, to more accurately reflect the increase in housing costs and to make housing opportunities available for working middle-class Americans.

Second, what about homeownership opportunities for working families, for low-income families living in public housing? Section 122 of the housing bill provides housing opportunities for low- and moderate-income families living in public housing projects to manage their own projects. That is important.

Further, section 123 provides that after a group of tenants have organized to manage their own public housing projects, they may choose to organize and buy the project, thus becoming home owners. That is one of the strong points of this bill—giving people an opportunity to be homeowners in this great society.

In addition to providing management opportunities in public housing, the bill allows the Secretary of HUD to waive existing regulations for tenant-management corporations, to allow public housing tenants to purchase their projects, to become homeowners. This provision alone, I believe, is the most significant first step toward providing home ownership opportunities for public housing residents.

Mr. President, let me concentrate on one other provision, and that is the one called the Nehmiah Housing Opportunity Grant Program. It provides home ownership opportunities for working families. It provides grants to nonprofit corporations. It provides for working families in distressed neighborhoods to purchase newly constructed or substantially rehabilitated homes. The maximum amount of the Nehemiah second mortagage is $15,000. It is the difference between giving a working family the opportunity to own a stake in their community and simply just pay rent, with never having a hope of being part of the community. This, I believe, will be particularly valuable in our inner core cities.

Mr. President, there are many other provisions of this very substantial legislative effort that go a long way toward making the housing laws of our Nation make better sense.

Mr. President, I ask unanimous consent that the name of Senator KARNES be added as a cosponsor.

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

Mr. D'AMATO. Mr. President, I have enjoyed the vital work of Frank Burk, the legislative counsel, and commend him for having brought us to this point.

I yield the floor.

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

Mr. D'AMATO. I yield.

Mr. SARBANES. Mr. President, I simply say to the Senator that I strongly support his comments about the Nehemiah program, a program which I think is extremely significant in offering a push toward home ownership for lower income people.

I recognize the effort which he and Senator CRANSTON, the able chairman of the Housing Subcommittee and others have made to come up with a housing bill which is acceptable and which can pass; they have made a very significant contribution to the legislative process.

I commend the Senator for his statement in terms of what we are trying to do in this legislation. I agree completely with his observation that the Nehemiah program offers hope to create home ownership that did not previously exist, and I think this program will make an important contribution to the stability and strength of our neighborhoods across the country.

Mr. D'AMATO. I thank the Senator.

Mr. DOMENICI. Mr. President, I am pleased to join my colleagues in introducing this amendment to the housing bill, S. 825. I enthusiastically support the amendment and urge my colleagues to do the same.

When the Senate voted not to waive the Budget Act on the conference report to accompany S. 825, it was not a vote against housing.

It was a vote for fiscal responsibility.

It was a vote to uphold the rules of the Senate.

It was a vote against objectionable House provisions adopted in the conference report.

But it was not a vote against housing.

This Senator and many of my colleagues wanted to make sure that the waiver vote was not the last word on housing this year. So I am particularly pleased to have this matter back before the Senate.

Before discussing the amendment, I want to commend Senator CRANSTON and Senator D'AMATO, the chairman and ranking member of the Housing Subcommittee, for their efforts on behalf of this amendment. The Senator from Utah, [Mr. GARN] the ranking member of the Banking Committee, also deserves a share of the credit.

I also want to thank my good friend, the Senator from Colorado, [Mr. ARMSTRONG] for his role in crafting this bill and his willingness to work with us.

The changes made by this amendment are real and substantial. I believe we have addressed all of the major objections raised during last month's debate on the conference report.

Let me start with the numbers:

On its face, the conference report would have authorized $15 billion for fiscal year 1988. But a number of provisions were not included in that $15 total, leading OMB to say that the bill's true cost was closer to $19 billion.

With the amendment before us, that figure should drop by at least $2.7 billion. And $1 billion of OMB's total never should have been counted in the first place.

That leaves us with a true $15 billion authorization, which is slightly below last year's level.

The amendment also improves on a number of controversial provisions that had never been in the Senate bill, but were adopted in conference.

The new CDBG/UDAG displacement assistance requirements have been scaled back considerably. I understand that the cities and the mayors, who strongly opposed the original provisions, are satisfied with this version.

The provisions dealing with lead paint have also been tempered, with requirements for abatement limited to public housing and a clearly identified funding source.

The new Nehemiah Housing Grant Program has been limited to a 2-year demonstration, authorized at $25 million in fiscal year 1988 and $100 million in fiscal year 1989. The conference report would have authorized "such sums" in the first year and $150 million in the second.

It would impose a 2-year sunset on the provisions of the conference report dealing with flood insurance, to give us a chance to see what effect these new benefits have on the budget.

We have worked closely with administration officials in developing this compromise package and I want to thank them for their cooperation as well.

Clearly, this bill does not reflect all of the President's preferences in the area of housing policy. But the administration has made significant concessions to bring us to the point we are at today. For those who criticize this administration as unwilling to negotiate with the Congress, I point to this bill to show where they are wrong.

The substitute before us today does include a number of provisions requested by the administration. These include:

Termination of three programs: HUD's solar bank and, at the end of fiscal year 1989, housing development grants [HODAG] and section 235;

A demonstration program for rural housing vouchers;

A lower level for the rental rehabilitation program.

It is my understanding that this bill, if passed by the Senate and the House before we adjourn, will be signed by the President.

Now I understand that some Members of the other body may feel that we have strayed too far from the original conference report. To that, I would simply reply that the measure before us today is still a far cry from the "housekeeping" bill the Senate passed last spring.

This bill has been years in the making. Intransigence on the part of both Houses of Congress, as well as the administration, is to blame. I urge the House not to put this matter over into the new year.

Perhaps there is no other area of public policy where there are such widely divergent views, so deeply held. This bill represents our best efforts to forge a compromise between those differing views.

Mr. President, the Senator from New York has indicated the involvement of the Senator from New Mexico.

Many weeks ago, when the house bill came to the floor, the Senator from Colorado [Mr. ARMSTRONG] and the Senator from Texas [Mr. GRAMM] principally led a discussion, a very lengthy discussion, of the then-pending measure. It was my pleasure, in some small way, to be helpful to them with reference to the excesses in that bill and the budgetary implications.

As a result of their efforts and the efforts of a number of others, the housing bill, with its excesses, was dead.

But each and every one of us who worked to defeat that measure on budgetary grounds made the statement that we were not against the first major housing bill since 1981. We were against the conference report on budgetary grounds and on a number of policy grounds. We thought the bill would become unworkable in our cities. The conference report, if adopted, would have made many kinds of new development more difficult.

It was my privilege to work with the White House and members of the Senate Banking Committee to improve this needed legislation.

Since the Housing and Community Development Act of 1987 revolves around housing, realtors, and home builders, I saw the need for a broker.

I was a very privileged broker. I worked with the Senators on our side, then with Senator CRANSTON, and then with the White House. Our efforts were successful. I believe we have a much improved bill, which on fiscal grounds no longer violates the budget.

New programs are at a minimum. Some programs that are not as important for the future of housing, such as section 235 housing, the Solar Bank, and Hodag, are terminated in 2 years.

I also think there have been some important improvements to many ongoing housing and community development programs.

I say to those who might have misread the intentions of the Senate—in particular, our vote to sustain the budget point of order—that we wanted a housing bill. We did not want the original conference report.

We are in favor of tonight's amended housing bill, which will include a permanent extension of FHA. Many in our country say this permanent extension is long overdue.

There are some other very exciting concepts in our amendment. Because of our limited time tonight, I am going to close by talking about just one.

We have been wanting to improve rural housing for a long time. In our amendment we create an experimental program to use vouchers on rural housing for the first time in rural America.

I urge that the Farmers Home Administration look carefully at it, because if it works, I think it will make a point with Congress. We put in a 7,500-unit voucher system for rural America that essentially says this: The Farmers Home regions in America will inventory their housing stock, and if there is existing housing or rehabilitable housing, the vouchers will encourage improvements in the rental housing stock. Five States will be able to participate in this experiment.

I think this is exciting. I think it might work in some of our small communities.

I hope we will vote soon on this amendment. It will mean that almost all of those who voted against the conference report on a point of order will be able to show their support for this much improved amendment.

Again, it has been a pleasure to work with Senators D'AMATO, CRANSTON, GARN, ARMSTRONG, and others. I urge my colleagues to support our concerted effort to improve our Nation's housing and community development programs.

I yield the floor.

Mr. WILSON. Mr. President, I am one of those described by the senior Senator from New Mexico who voted to sustain the point of order that the conference report was in violation of the Budget Act, because indeed it was. There was some doubt as to the amount of the excess, but it was substantial.

Mr. President, though I have perhaps been more critical than anyone else of our processes on this floor, I have to concede tonight, with great pleasure, that this is a story in two parts, and the second part has a very happy ending.

There has been a great deal of deserved congratulations, a great deal of thanksgiving, by Members on this floor. I am one not privileged to serve on the Banking Committee, but those who do were more than cordial in permitting me to participate in the deliberations that led to what I think is a very carefully crafted compromise.

My colleague from California, Senator CRANSTON, is due great credit for having kept alive this bill at a moment when it would have been easy for him to engage in partisanship. He has made it clear, that rather than having the kind of phony campaign issue that sometimes seems to be of paramount importance on this floor, he did what he thought was necessary in the Nation's interest, and we actually got a workable housing bill. He, along with the ranking member, Senator GARN, the ranking member of the subcommittee, Senator D'AMATO, Senator ARMSTRONG, and Senator DOMENICI met. I watched a very interesting process occur, one of give-and-take, and very much a part of that was the Office of Management and Budget representing the White House. The result has been what, I repeat, is a very carefully crafted and equitable compromise and one that does not cost $19 billion. It is in fact under $15 billion. It is substantially less than the bill that passed the Senate and substantially less than the House bill as well as the conference report which we twice rejected because it violated the budget.

So tonight what we have is the first free-standing housing bill in many years. It is one that makes permanent the authorization of FHA so that we will no longer have the incessant interruptions, the need for short-term extensions, the kinds of suspended authority that last year meant 51 days when FHA financing was unavailable for young American home buyers. It also increases the FHA loan rate to respond to the reality of high cost area housing prices. It does not increase in an unwarranted fashion GNMA or FNMA, or other user fees. It does provide continued adequate funding so that we may be assured that we will have the decent deserved housing for our elderly Americans.

I will not go on. Mr. President, let me just say that it does one other thing. It is tremendously important and I think that it was recognized in both Houses, that what we did in this bill would have a distinct bearing on the affordability of housing for young American home buyers.

At the end of the last administration we were faced with interest rates that were the highest in recent memory. It was difficult for builders to build. It was even more difficult for them to find families able to qualify for mortgage loans. And obviously, had we persisted in the course chosen by the conferees, we would have in fact not been celebrating the first housing bill in years tonight. More to the point, had we somehow gone the other way and enacted a bill at a cost of $19 billion our credibility in terms of deficit reduction and the seriousness with which we attack that deficit would be in serious disrepair.

So tonight we have not only a useful bill but an affordable bill, one that will make housing affordable, one that promises homebuilders to build housing, realtors to sell it and American home buyers to be able to afford the dream of an American home.

Mr. President, I think that there is a great deal of credit to go around, but we are advised that the House is awaiting this bill, so I will take no more time. I will simply extend my gratitude to those who kept alive that hope of young home buyers, because it very nearly did not come to pass.

Having criticized the process, tonight I am in a position to express my gratitude that in this instance it has worked, and worked to the great benefit of the American home buyer.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I am pleased that we are nearing final action on the housing conference report.

I congratulate the managers of the bill, Senators CRANSTON and D'AMATO for their work in fashioning a package that will meet the concerns over the budget.

The funds authorized by the housing conference report are below levels approved in the congressional budget resolution. When the Senate passed the housing bill by a margin of 71 to 27, the Senate decided to freeze budget authority on housing programs at the fiscal year 1987 level. The housing conference report is $600 million below the freeze level.

Mr. President, housing has already taken a heavy share of past budget cuts. During the past 7 years, we have seen budget cuts take a 70-percent bite out of our assisted housing programs. We have also seen the Community Development Block Grant Program cut by 40 percent, and a 60-percent decrease in the Urban Development Action Grant Program.

What we are talking about here today is our commitment to providing a better way of life to the American people as a whole. What we are talking about here today is our commitment to community development to attract new industries, our commitment to provide better housing for our senior citizens and our commitment to insure that the American dream of owning a home is attainable by our young families.

The provisions contained in S. 825—as agreed to by the Senate and House conferees—embody the reaffirmation of the Congress' commitment to assist in providing decent housing for our low- to moderate-income citizens, as well as in contributing generally toward a better way of life through enhanced community development and economic assistance for those areas which so badly need it.

The report makes permanent the FHA insuring authorities so that in the future we will not be faced with the termination of the important FHA home mortgage insurance that in recent years has lapsed several times because Congress and the administration could not agree on how best to address the housing needs of our country. Essential HUD and Farmers Home Administration housing programs, as well as the Community Development Block Grant and Urban Development Action Grant Programs have been assured for another 2 years. And most important, this measure makes statutory changes which will insure that the intent of Congress is followed in the administration of the HUD and FmHA assisted housing programs.

All of these programs have greatly assisted and will continue to help West Virginia. In my home State decent housing is one of the most urgent and compelling needs we face. The Community Development Block Grant Program has and will continue to provide West Virginia and other States with funding so badly needed for sewer and water projects and for other programs and projects which add to the quality of life and enhancement of attractiveness for purposes of economic development.

West Virginia's unemployment level has reached 21 percent in the not too distant past. Absent the Urban Development Action Grant Program, in particular, and the help which it and other community and regional development programs have provided, we would not have been able to lower this unemployment to under 10 percent today—a level which still remains unacceptably high. Since the UDAG Program's inception in fiscal year 1978, it

has provided funding for 19 projects in West Virginia, amounting to $40 million. These funds have leveraged an investment into the State of almost $200 million in private sector funding, along with the creation of 5,500 permanent jobs.

While much has been accomplished, much more remains to be done. Many of our towns and cities have been devastated by the economic policies of the last few years. Factories have closed, jobs have been lost, and people are suffering. At a time when many of our rural States are in the greatest need, Federal funding is disappearing. In 1987, it is a sad commentary that many of our communities are still without adequate sanitation or water systems, and that there is little or no money to provide those services. It is a sad commentary, that more and more, our young people are finding the American dream of owning their own home vanishing, and many of our elderly are living in substandard housing.

Now is not the time to renege on our commitment. It is the time to act responsibly in meeting the needs of the people we represent and the communities in which they live. I support the adoption of this conference report.

Mr. President, I again commend the managers, Mr. CRANSTON and Mr. D'AMATO, for the good work that they have done, for their superb dedication over a period of many, many months and for their success in obtaining an agreement that has such wide bipartisan support.

Mr. CRANSTON. Mr. President, I simply want to thank the majority leader for his kind remarks and for his help on this in arranging the schedule when we needed the schedule and helping us expedite matters to this point.

I thank him very much.

Mr. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, this is a great moment in the Senate. We are all in a great mood and everybody is congratulating everybody else and justifiably so.

What we are about to enact is a fine legislative accomplishment, and in a few minutes I would like to join in the general sense of congratulatory observations and so on, but before I do so, before I comment on the bill which is before us, I would like to begin by putting into context the legislation which we are enacting tonight and which the President has promised to sign because during the months under which this housing bill has been considered by the Senate, an impression has grown up—indeed it has been created—that somehow we have been shortchanging subsidized housing in this country.

In fact, I was dumbfounded just a few days ago to hear stated on the floor of the Senate that during the Reagan era, during the years when President Reagan has occupied the White House, we have cut housing expenditures by 80 percent, and indeed we hear a wonderful emotional speech by one of our most distinguished colleagues who came to the floor and almost with his voice shaking and in a mood and temper that would bring tears to the eyes of any thoughtful and compassionate person pointed out that there were homeless people all over this country, and on and on and on.

Mr. President, it seems to me that this legislation and the issue we are addressing here is far too significant to let it rest upon that kind of emotional and indeed inaccurate portrayal of the circumstances of housing in America and the record of the Reagan administration and of this Congress because the reality is exactly the opposite.

There is absolutely no basis or foundation to say that we have cut spending for housing and in my judgment there is no danger, none whatsoever, that this year or next or any year in the future we will underfund housing needs in this country.

There is a very great danger in my opinion that we will go to excess in providing more and more and more spending for subsidized housing.

So I asked my staff to prepare some charts and I would invite Senators to take a look. Some of my staffers thought when we made up the charts we would probably get Vanna White to come down and turn the cards, but it did not work out that way. I hope my colleagues will nonetheless take a look at some of the facts.

First how well people are being served by public housing in this country? This chart reflects the dramatic increase in the number of people served in Federal subsidized housing. In 1960 a little over 1 million, about 1.2 million people. By 1970 the number of beneficiaries had risen to 3.6 million. By 1980, 12.9 million, and during the years in which it is alleged we have underfunded this program because President Reagan came to town with a tightfisted agenda by which we were going to cut back on spending for the social programs and for the safety net we have increased the number of persons served by federally subsidized housing by another 3.4 million persons.

Now my question, Mr. President, and I am going to vote for this bill tonight—in fact I am going to in short order explain why not only I think it is worth voting for but indeed it is a worthy and praiseworthy compromise.

But this is not the last housing bill we are going to consider. We are going to be here in a few months taking another look at this issue and be back year after year. And the question I hope my colleagues will begin to consider is this: How many million people do we think ought to be subsidized for housing in this country?

It is my belief that when you start talking about putting 15 or 16 or 18 or 20 million Americans in subsidized housing that you have just about reached the outer perimeter of the number of those who are, by any reasonable standard or definition, needy.

Now, if that is true—and, intuitively, we know it is—my colleagues, do we not realize intuitively that, if we have 10 percent of all Americans in subsidized housing units, that about takes care of those who are needy. If we believe that to be true, then how can it possibly be that there are still people who are still demonstrably needy who do not have adequate and proper housing,

The answer is very simple. It is because so many of these nearly 20 million people in subsidized housing are not by any reasonable definition needy people. We have created an enormous number of programs and funded them lavishly to spend for those who are not needy but, in fact, qualify for programs on some other basis.

Mr. President, I invite my colleagues to take a look at some other statistics that tell the same story in a slightly different way. This, for example, portrays the number of Federal housing units. In 1960, less than half a million. By 1970, 1.2 million. By 1980, the number had nearly tripled to 4.5 million.

And, during the Reagan Administration, during the years when this tightfisted President, probably the most conservative President we are ever going to see in our lifetime, has occupied the White House, we have increased the number of subsidized units by another 1.1 million, bringing the total to 5.7 million. And there is more in the pipeline. If we never pass another housing bill, there would be more units coming on line because that is the way the system works.

And I regret to say—and I say this cautiously, but it is a fact, ladies and gentleman—there are a lot of Senators who do not understand how this program works. And the way it works is this: When we appropriate, we set in motion not just 1 year's expenditures, but 5, 10, and, in some cases, as much as 30 or 40 years of expenditures. So each new appropriation, year by year, is not just the total of what will be spent for the ensuing year, but adds to everything that is already in the pipeline. And the pipeline is tremendous.

The next chart talks about the actual expenditures for subsidized housing. Having looked at the number of persons served, it is not surprising that we have seen a large increase in

the outlays. In the last 10 years alone, a $6 billion increase, 173 percent, up to now $16 billion.

Now, Mr. President, last, but not least, I want to call attention to a 352-percent increase in Federal housing outlays during the last decade. It is interesting, it is instructive, and I hope Senators will recall this the next time somebody comes to the floor to rail against the Reagan administration for underfunding subsidized housing. I hope Senators remember that in 1980, when Ronald Reagan was elected, we were spending $5.6 billion. We are now spending in fiscal 1987 $13 billion, which is an increase of 130 percent. And if anybody wants to criticize President Reagan, it seems to me it is not for underfunding this program, but for permitting it to run out of control.

Now, to his credit, let me say that Mr. Reagan had repeatedly called for curtailing many of the programs that make up this total and has called for us to terminate a number of the programs. He has not yet been successful in achieving these goals. In fact, year after year, he sent up messages to us to abolish programs like UDAG. I am not going to rail against UDAG tonight. I have agreed with my colleagues that litigating the question of UDAG and whether or not we ought to have the Federal Government paying the bills for new hotels and marinas and condominiums for the most affluent, most successful corporations in America, and office buildings and all of that, that that is an argument we ought to lay over until next year. And, in due course, I will again ask Senators to consider that question.

But I do want to point out, to his credit, despite the fact that the funding for this program has increased very rapidly during the Reagan years in the White House, the President has wisely and courageously called for us to terminate some of these programs.

Now, Mr. President, the bill that we are about to consider. A few days ago, I asked Senators to join me in opposing a motion to waive a budget point of order on the conference report of the housing bill. And I was pleased that 42 Senators joined me in doing so. It is precisely because, in part, they were willing to stand up and be counted on that issue—Senators who wanted a housing bill, particularly Senators who would like to see the FHA Loan Guarantee Program extended, stood up to be counted and cast a vote which many of them believed, perhaps correctly, was a very risky vote for them to make politically—it is because of their willingness to do so and their courage that we are now able to consider a much better bill tonight.

When Senators made that vote—and there are a few of them on the floor right now that fit into that category—when Senators made that vote against waiving the point of order, they had no way to know whether or not we would ever get a chance to have a housing bill. They did not know whether we would get back to it this year or next year, or whether the matter would ever come up again or whether they would ever have a chance to express their support for a housing bill. And some of them wondered to themselves or aloud: How is this going to look back home? How is it going to look when my opponent in the next election says: "Here is a Senator that voted against the housing bill. He doesn't care about housing. He doesn't care about the homeless. He doesn't care about whether or not they have a permanent extension of the FHA. He doesn't care whether or not we increase to $101,000 the loan limits under the FHA Program."

I think Senators who took that risk, particularly those who are planning to be candidates for reelection in 1988, deserve our special thanks, because if they had not been willing to stand up and be counted, we would not have had another crack at this bill and it would not have improved in the dramatic fashion which Senators have already pointed out.

Second, I want to say that we would not have a better bill here tonight if the managers of the bill, the Senator from New York and the Senator from California, had not made up their minds that what they really wanted was a bill rather than an issue. They could have just dug in their heels and said, "No, by gosh, we are not going to compromise. Let the President veto it and it will be on his head. And anybody who votes to sustain his veto, they will have to stand up for it politically." And they could have done that.

I compliment them for being willing to take into account the very real concerns the President has about this bill and which many Senators have and in working with us to accommodate some of them. They could not, in their own conscience, accommodate every single concern we laid on the table, but they did take us into their confidence enough that we were able to strike a compromise. And it seems to me their willingness to do so—and I mention particularly the Senator from New York, Mr. D'AMATO, and the Senator from California, Mr. CRANSTON, the managers of the bill. I think they deserve our special thanks, too.

But, more than anybody else, Mr. President, do you know who gets the credit for this bill? If it is a good bill and Senators like it, and if people out in the country find it is the type of bill they like—I think that would probably be the case—nobody deserves as much credit as Ronald Reagan, because we know that we would not have had the votes on the point of order and we would not have had the clout to negotiate with the proponents of housing legislation if the President had not said, "I'm going to veto this bill."

And it is instructive, and I hope that we have all learned something, especially people who advise the President, it is instructive that the President did not send us an equivocal signal. We did not have any of this subterfuge about how people in the administration have great reservations. We did not see those notices posted that if this bill were to be passed, the President's senior advisers would be forced to recommend he seriously consider turning down this legislation.

Why, no, Mr. President, the President said: "If that bill reaches my desk, I am sure as shootin' going to veto it."

And it was that conviction, that willingness for him to stick his neck out at a time when he did not know whether he would get 40 votes to sustain a veto or 10 that made the difference.

And so those are the elements of the compromise. First of all, Senators who were willing to stand up and be counted when it was not easy to do; managers of the bill who were flexibile enough and willing to take into account the concerns of people who had a different view on the legislation; and the courage of the President at a time when it would have been very easy for him to just say, "Well, it is going to happen, and so let's let it happen."

As a consequence, Mr. President, we come up with a bill which is vastly better than what we had just a few days ago when the conferees reported the first conference report. Now, it is still too expensive for my taste. I am going to vote for it but I wish it was less money. However I note in passing that it is about $4 billion less in spending than the earlier version of the bill. Among other things, we have eliminated the "such sums" authorizations, the open-ended authorizations for spending which were contained in earlier versions of the bill.

Mr. President, we have also eliminated the direct spending provisions which, though not large, were the specific issue which led to the point of order which was sustained and under which the conference report fell.

Mr. President, we have limited the new credit authority in this legislation by making it subject to appropriation.

We have, to my very great pleasure, targeted the new Nehemiah program so that almost all of the money, virtually all of it, will go to those who are truly needy. And I especially want to salute the Senator from New York, my friend, AL D'AMATO, and not only for his relentless championing of this program right from the start. He has brought this program forward, explained how it has worked in New York, and pointed out how it could be

of benefit elsewhere. Then I salute him for his willingness to compromise and say that most of the money, almost all of it in fact under this final compromise, will go to persons whose income is below the median income in the area to be served.

The significance of this is very simple. If you let high-income people qualify for this Nehemiah program, which is interest free $15,000 second mortgage loan, it very quickly becomes what its critics said it would be and that is a subsidy for a bunch of yuppies. Literally middle and upper income people would be subsidized in part by the tax dollars contributed by low income working men and women around the country, and that is not fair and it is not right. And so this is the final compromise, although I still have some questions about how the program is going to work and I am not sure whether or not 2 years from now I am going to want to vote to extend it.

I like the fact that it is home ownership. I like the values and citizenship that is fostered by home ownership and I particularly like the fact that the people who backed this from the start were willing to see it targeted almost exclusively, not 100 percent but almost 100 percent, to those who were below median in income. I am glad we are terminating at least the 235 home ownership program. I am glad we have taken out of the bill the provisions to pay the salaries of CETA workers, which was in the conference report and has been eliminated. I am glad that we have been able to attenuate, not eliminate but at least attenuate the new antidisplacement provision that was in the conference report.

I want to comment on that because Senators may recall that this was a matter that I was pretty steamed up about. We never thought about this idea in the Senate. I had not been the subject of hearings. It had not been discussed on the floor. We got over here and here in the conference report was the notion that if somebody had been displaced by a UDAG or CDBG project, the local government units were going to be required for 10 years to subsidize their rental income and that struck me as an idea which, frankly, I just could not mention in very complimentary terms. It is a terrible idea.

I must admit I still am not sure that we are not going too far, but we have targeted this in a way that certainly seems to take care of the real problem where somebody is displaced by a Federal project. When the Federal bulldozer comes in and knocks down, say, a single room apartment hotel where there are a lot of poor people living in order to build a luxury, high rise or something under UDAG, at least we are going to take care of those people. But we are not going to open the door to a 10-year, unlimited, unguided undirected kind of expenditure; specifically it is limited in this to 5 years, not 10. It is limited with respect to the replacement of units to findings of fact by the Secretary of HUD that such units are not already available within the area to be served.

So I think it is a reasonable compromise although, again, I think it is a program that bears careful watching and if it is abused, it ought to be further reformed or should be terminated.

Mr. President, one of the things that we addressed in this compromise is the issue of illegal aliens. A couple of years ago or maybe a little more, and at my request, the Senate adopted a provision which simply forbids giving rent subsidy to illegal aliens. The reason that came to pass was I picked up the paper one morning and in a big headline read the story that there was, apparently, some number of illegal persons receiving Federal housing subsidies. It just seemed unthinkable to me that we would subsidize the living expenses of persons whose very presence in the country violated our laws. So I contacted HUD and they gave me the doggonest song and dance I have ever heard that they did not have the legal authority to stop paying illegal persons a rent subsidy. So, rather than argue about it, we just put through a provision that cut it off.

The advocates of this bill, the floor manager and some of those who were interested in the bill from the House, pointed out some problems which, frankly, we had not foreseen, so I was glad to be able to strike a compromise with them. The broad outline of the compromise was this. We are not going to let any more illegals into subsidized housing. That is clear from this conference report agreement. But we are saying that where you have a mixed family, that is a legal person, a citizen or a legally resident alien who is receiving housing subsidy and is the husband or wife or son or daughter or father or mother of an illegal person who is living in that same residence, that we are not going to force them to break up that family.

This is a direct, head-on collision, Mr. President, between two very deeply engrained values in our society. One is obeying the law, which is certainly contravened by paying them subsidies. But the other and perhaps in this case an even higher value is the sanctity of the family.

So I think the ultimate outcome of this is probably about as good a compromise as we could make. In fact, I guess I would have to say that in my opinion it is almost a Solomon-like compromise. It is not a compromise of my suggestion, but I warmly endorse it and enthusiastically agree to it.

I am very pleased, Mr. President, that we have done away in this bill with the HODAG Program. Senators will remember that I criticized that program when it was here before, when the bill was before us. As you know, this is a rent subsidy program and it has turned out to be about the most expensive possible way to subsidize low-income persons. As a matter of fact, only one-fifth of the units in a HODAG project have to go to low-income people and it is part of the problem that I referred to earlier.

We have all of these people, 16 or 18 million of them already in subsidized housing and yet a lot of them are people who are not by any reasonable standard poor people. And, as a result of the fact that it is not very well targeted, HODAG subsidies costs about $73,000 for each low-income unit. And in some cases the subsidy is $100,000 for each low income unit.

So, Mr. President, doing away with that program over the 2-year cycle of this bill is, it seems to me, a very worthy provision.

When the conference report came back to us, Mr. President, there was some language in there that would have set us out on a very expensive venture to remove led-based paint in public housing and perhaps at some point in private housing as well. We have narrowed that down in a way that I think, first of all, make it much less expensive but more important it does address in a thoughtful and conclusive way the public health problem. So that we are not going to hear of children becoming ill or possibly even dying as a result of lead-based paint that could be removed but also so that we are not going to be removing lead-based paint from every building in North America.

Mr. President, one of the problems we saw in the conference report when it came to us was a weakening of the reform that the Senator from Utah, JAKE GARN, put in the law a few years ago where he said everybody, even poor people, ought to pay at least 30 percent of their income toward housing. The reason he got to 30 percent was because that is what a lot of working people paid and it did not seem unreasonable to him nor to the Senate nor to our colleagues in the House that even a poor person ought to pay 30 percent. It might not be 30 percent of a very high number but it ought to be a resonable effort to pay toward their own rent. The conference report sought to weaken that in a way which we thought was unwise and in essence, though with some qualification, we have retained the 30-percent standard.

We have made one exception and again it is an exception that I am pleased to support because it says this: If a person is in a subsidized unit and gets a job or gets a pay increase if they are already working, and if for that reason they would be either required

to leave the unit or to pay more than they had previously been paying, that we have a phase-in period. It started out to be 5 years and then at one point we thought we had it down to 2 years, now it is up to 3 years and that is the final resolution of it. They have up to 3 years to conform to the 30 percent standard. Again, I think a good compromise because it preserves the sanctity of the idea which Senator GARN put into law here a couple of years ago and yet it also says if somebody has enough gumption, enough get-up-and-go to go out and get a job, that they ought to have some benefit from that before they have to start paying more for their housing.

Mr. President, there are a number of other provisions I could mention, but I think you get the idea that this is a very much better bill. So I want to joing my colleagues in urging its adoption.

In closing, I especially want to compliment some of the people who have worked on this measure. I mentioned my colleagues, and, of course, they deserve great credit. But I would be remiss if I did not mention what a wonderful job Joe Wright and Carol Crawford, of OMB, have done. I suppose in the past week I have talked to one or the other of them maybe 50 times by telephone. They have been in on the negotiations in both the House and the Senate. And the able assistance of Alan Rhinesmith and Kathy Peroff, of OMB. Grace Morgan has been at Mr. D'AMATO's side through all of this and actually wrote a lot of this, also suggesting a couple of the compromises, as did Carol Hartwell who represents Senator D'AMATO as did Don Campell and Bruce Katz, who worked on this for ALAN CRANSTON; also Frank Burk, maybe unknown to many Senators but actually the unsung hero of this and many other bills that have come before us. He is the legislative counsel that did a lot of drafting for us, and I assume others. Also Jan Maxfield, who sat at the table on behalf of JAKE GARN.

Mr. President, I can mentioned some others, but that sort of covers the waterfront so far as I am concerned.

I want to say this is a good bill, a good compromise, a good outcome, and I am grateful to my colleagues and to the staff who made it possible.

Mr. CRANSTON. Mr. President, we have heard a lot of inaccurate talk about housing these past few months—inaccurate talk about housing policy, housing needs and this housing bill.

The fact is that law and moderate income families in this Nation face a rental housing crisis. They face a crisis because there simply are not enough affordable apartments available for their use. Between 1975 and 1983 the number of rental households earning under $10,000 increased by 3 million, while the number of rental units they could afford declined by 2 million. Two-thirds of the 23 million low-income households currently pay excessive rents or live in physically delapidated structures.

For the past 7 years, this administration has opposed efforts to mitigate America's housing crisis and, in fact, has done everything it could to exacerbate the problem. They continually argue that they provide more families with housing assistance than ever before. Yet that is clearly misleading. The increase in housing assistance is a result not of this administration's policies but of the housing policies of earlier administrations. And the real question is how many more families would have been served—how many less homeless people would there be—if the housing budget had not been cut by more than 70 percent since 1981?

The Senator from Colorado points to the additional families that have been served during the Reagan years. The administration will tell you that 4.1 million families were being assisted under the HUD's subsidized housing programs in fiscal year 1986. They will also tell you that this number is expected to grow to 4.3 million by the end of fiscal year 1988.

What the administration won't tell you is that this increase in housing assistance is a result not of Reagan administration policy, but of the housing policies of earlier administrations. Where previous administrations have attempted to leave a legacy of housing security in years after they left office, this administration is doing all it can to leave a legacy of lost low-income housing.

What they won't tell you is that as a result of the Reagan administration housing policy, we will witness a rapid decline in housing assistance starting in 1991, shortly after Reagan leaves office. The President's budget consistently ignores the vast number of units which might be lost in coming years from such causes as mortgage prepayments, foreclosure sales and public housing demolitions.

The declining supply of rental housing affordable to low-income families is the most pressing housing issue facing the Congress today. Over the coming years the Nation may lose as many as 1.7 million low-income housing units because of mortgage prepayments and the expiration of section 8 rental assistance contracts.

What happens when a prepayment occurs is easy to illustrate. Earlier this year an owner in Morris County, NJ, prepaid his mortgage on an 84-unit project. The owner then informed his tenants, 85 percent of whom are elderly, that he would raise rents from $360 to $675, an increase of nearly 100 percent. Unless the Federal Government intervenes, these tenants will be evicted from their homes and be forced to look elsewhere for affordable apartments which do not exist in their community.

Mr. President, fortunately responsible Senators are willing to stand up and refuse to contribute to further cuts in housing.

We cannot correct all the damage that has been due to this Nation's housing policy in the past 7 years. We can, however, prevent further damage in years to come.

After 7 years of neglect, the issue of housing has forced itself back on the national agenda. Homeless families, declining supply of affordable rental units, declining home ownership opportunities—these issues are here and they are here to stay and they require a Federal response. This bill is the beginning, a fiscally responsible beginning, of that response.

I look forward to working with my colleagues on a housing policy that will meet the needs of the next decade.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Illinois.

Mr. DIXON. Mr. President, once again, the Senate turns to consideration of S. 825, the Housing and Community Development Act of 1987.

Although the substitute amendment before us is not crafted as I would have liked, it is the best compromise we could produce, given the current political and fiscal restraints. The amendment should remove all elements from the bill which made it objectionable on November 17, 1987, when the Senate considered the conference committee report on S. 825.

As my colleagues know, the objections that were raised included three provisions that involved a total of $47 million in direct spending, even though these items were in the Senate bill, which passed earlier.

This substitute amendment takes the Federal Government further from its national commitment of providing "decent housing and a suitable living environment" for every American family. However, Mr. President, I am in a position where I'd rather have the housing proposal which we are considering now than to have no housing authorization legislation at all. This is truly a compromise proposal, and I support it.

S. 825 is on its way to becoming the first major freestanding housing bill that Congress will have approved in 7 years. In the meantime, assisted housing programs have taken a 70 percent budget reduction, far more than their fair share.

According to a recent Chicago Urban League study, Federal funding for low-income housing in Illinois has been cut by a whopping 87 percent since 1980. Mr. President, the devastating

situation in Illinois, as is the case in other States, is that neither the private sector, the State nor local government has come close to making up the difference.

Housing programs have not caused our budget deficit problems. Instead, housing program reductions have contributed to both an increase in the number of homeless individuals and families, as well as to the lack of available and affordable housing for low- and moderate-income families.

S. 825 makes permanent the FHA Mortgage Insurance Program. It authorizes for 2 years the HUD- and Farmers Home Administration-assisted housing programs, and the Community Development Block Grant and Urban Development Action Grant Programs.

In addition, S. 825 authorizes a demonstration program to assist public housing agencies in providing childcare services for low-income residents, and authorizes 12,000 new housing units for the elderly and handicapped. It also prohibits user fees on mortgage insurance and secondary mortgage market programs.

I am especially pleased that S. 825 maintains provisions of S. 243, the "Public Housing Resident Management Act of 1987," which on January 6, 1987, I introduced with the cosponsorship of Senators GLENN, DANFORTH, and KENNEDY. These provisions are also similar to those in S. 2242, the tenant management bill which, also with Senator GLENN, I introduced on March 26, 1986.

Under S. 825, residents of public housing developments are authorized to manage their own housing conditions. Under contract with the local public housing agency, a resident management corporation is authorized to manage the housing project and to retain profits from improved rent collections.

As an incentive to increase flexibility for tenant-managed projects, corporations may be provided with comprehensive improvement assistance for project renovations and improvements.

Residents at Leclaire Courts, a public housing development in the city of Chicago, recently formed the State's first tenant management corporation. They are preparing to manage their 615-unit development.

I look forward to seeing innovative projects at Leclaire Courts, such as the creation of jobs and health clinics, formation of day-care centers, and, overall, the development of a safer and more stable community.

Resident management can improve the overall living conditions of tenants at public housing developments and can provide a valuable return on investment for taxpayers.

Mr. President, I solicit the support of my colleagues for immediate approval of S. 825.

Mr. President, last week we attempted to work out a compromise on the housing bill after it had originally failed. We urged the leaders on both sides, particularly those who had been very active on the House bill, to try again. Mr. President, I am in my seventh year in the U.S. Senate and President Reagan is in his seventh year as President of the United States and, in that time, we have not passed a housing bill in the Congress.

As I have said so many times in the past, we have doubled military spending—I have participated in some of that as a member of the Armed Services Committee—while at the same time cutting housing in America in the last 7 years by over 70 percent and, in my State, Mr. President, and unbelievable 87 percent.

I just want to say, Mr. President, that I express my warm appreciation to Senator CRANSTON, the distinguished assistant majority leader, for his work; to my warm friend, the distinguished Senator from New York, Senator D'AMATO; to Senator DOMENICI, to Senator GARN, to Senator ARMSTRONG, to every other person. I see others standing on the floor who, I am sure, have participated in this effort. I thank them for the fine result which has been obtained here, Mr. President.

I want to make this final remark: compared to a great many things we have done here, the first bill was certainly not a budget-buster. I continue to resent the implications by some who opposed this bill that it was. But this is a fine bill and I am delighted to support it.

Mr. President, I am delighted that it contains the title of a bill that I crafted along with the support of some others here, a title which permits tenants in housing projects all over America to manage their own affairs and their own housing units. I think that will be a wonderful, wonderful opportunity for us to see a tremendous improvement in public housing in America.

I see my friend, Senator SARBANES, of the committee, who has been so helpful, and I thank him. I thank all my colleagues for their good work.

I want to close once again by thanking Senators CRANSTON and D'AMATO for their continued efforts throughout a long and very difficult period of time to bring this to the fine culmination that has been brought about this evening in what I see as the best legislation. Their perseverance has brought us to the first housing bill in 7 years. They are to be warmly congratulated. I am delighted I played a part in it, Mr. President, and I am delighted to express my sincere support for this legislation.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, a few moments ago, Senator ARMSTRONG, of Colorado, mentioned several improvements which had been made in this compromise, which, in this Senator's opinion, makes this a much better housing proposal.

I wish to compliment the Senator from Colorado because I think it is very seldom where we see one Senator take on an issue, as the Senator from Colorado did in this case, take on an issue and do a lot of homework on it and find serious fault with the legislation as it passed the Senate and as it passed the House.

The legislation, if I remember, as it passed the House, had one negative vote. Yet, the Senator from Colorado was still willing to look at this legislation and not get rolled up in the enthusiasm for it, to look at the details.

I think he by his efforts, and I am giving him the credit because I think it was largely through his efforts, exposed a lot of the faulty portions of both bills. Largely as a result of his efforts, we were successful in making significant improvments and making an acceptable compromise package, one where I believe, because of the amendments, because of the changes, because of the efforts of Joe Wright, of OMB, Senator CRANSTON and Senator D'AMATO, and others, significant improvments were made so that the moneys that we are spending under this housing bill will be far more effective in actually helping those who really need the help.

I compliment the Senator from Colorado as well as the Senator from New York and the Senator from California for their efforts.

Mr. KARNES addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KARNES. Mr. President, I wish to join my colleagues, the Senators who are here today, in complimenting Senator CRANSTON, Senator D'AMATO, Senator DOMENICI, Senator GARN, Senator ARMSTRONG, and those others who worked so diligently to secure for the first time in 7 years a housing bill that is acceptable to both sides of the Congress and also the administration.

I want to compliment my colleagues who worked so diligently to arrive at this acceptable compromise. It has taken a lot of hard work. There have been a lot of strong feelings exhibited.

As a member of the Banking Committee I had the opportunity to participate in some of the meetings. I realized at that time how important it was to have a bill this year. More importantly, the spirit of compromise prevailed in working out solutions to these sticky problems that brought us to the point where we have a bill that can be approved.

I will not add to the eloquent remarks of my colleagues who have talked about the pluses in this bill and the significant changes that have been made to make this bill acceptable at this point in time.

Mr. President, I rise in support of the Cranston-D'Amato-Domenici-Garn-Armstrong compromise on the housing substitute. I want to compliment my colleagues who have worked so diligently to arrive at an acceptable compromise between the House, Senate, and administration. I am well aware of the strong feelings of all sides on this issue of housing and I applaud the leadership including Senators CRANSTON, GARN, D'AMATO, ARMSTRONG, and DOMENICI for the hard work.

As my colleagues in the Senate know, the country has been without new housing legislation for nearly 7 years. Much has changed during this period. Existing housing programs that have proven beneficial will be continued. Several programs have been reduced, several have now been designated to be eliminated in future years—a sunset provision. In fact at least one Federal program has been completely eliminated—the solar bank. This is what the taxpayers of this country would like to hear. A reduction or even elimination of Federal programs that have outgrown their usefulness. This is a very positive sign. Also, I might add, that a new program to encourage home ownership has been added. Much scrutiny of existing programs has resulted in important fund adjustments—all allowing the housing needs of Americans to be better served by our Government.

Mr. President, this Senator is very pleased that a compromise has been reached that removes the major objectionable items from the bill and retains the basic provisions that are critical to the housing industry.

I have always been supportive of the major provisions of the bill including the permanent extension of the Federal Housing Administration insuring authority, increasing the maximum authority to insure adjustable rate single family mortgages to 30 percent, limiting FHA mortgage premiums to 3.8 percent, and prohibiting user fees on federally sponsored credit agencies such as Fannie Mae, Freddie Mac, and Ginnie Mae.

At the same time, most of the objectionable provisions of the original conference report have been removed. The aggregate funding authority remains at $15 billion in 1988 with a 2-percent increase allowed in 1989 compared to a 4-percent increase in the original conference report. This funding point is important because this compromise establishes funding certainty in all the program areas. Just 3 weeks ago we were asked to vote on a budget waiver on the housing conference report in certain program functions that had no spending caps, only a statement as follows "* * * such sums as appropriated * * *." Now I have only been a part of this distinguished body for 8 months, but in that time I have learned that such open-ended language may constitute carte blanche authority to increase spending beyond original levels. Thus, such was one of the many reasons why I voted against waiving the Budget Act approximately 3 weeks ago. Other provisions that have been removed or altered in this compromise version include;

First, removal of the $47 million in direct spending which was the reason for the point of order in the first place.

Second, the bill makes a significant change in the displacement provision in the CDBG and UDAG. The relocation benefits would be limited to persons directly displaced by CDBG/UDAG-assisted private development projects. The compromise would eliminate assistance to "indirect displacees" and restrict other provisions to cases where displacement is caused by luxury housing development or by commercial or industrial projects that do not principally benefit low- and moderate-income people. This section alone, if not changed, would have put a chilling effect on vitally important public-private urban development.

Third, the compromise would limit the required rental assistance for direct displacees to resources available, after good faith efforts, through vouchers, section 8 certificates and project loan repayments.

Fourth, the Nehemiah home ownership grants which were strongly objectionable would be reduced to $25 million in fiscal year 1988 and $100 million in fiscal year 1989. The demonstration would sunset at the end of fiscal year 1989. The eligibility requirements were tightened to include incomes up to 100 percent of area median income with Secretary discretion to permit 15 percent of the units go to those with incomes of up to 115 percent of median income.

Fifth, the lead based paint detection and removal provisions would apply only in public housing, where the cost would be absorbed by modernization programs. Privately owned housing, including section 8 projects, would be excluded under this substitute bill. Thus, through this compromise we have spared millions of America's homeowners who have FHA insured loans from being forced at the time they sell their home to first spend an average of $200 per home to obtain a "lead paint test" on each room in their homes and if lead based paint thereafter is found, an average of $8,000 per home may have to be expended by the homeowner to remove this lead based paint. Estimates are that such provision would cost the FHA insured American homeowner in excess of $1 billion. I am pleased to say this provision has been significantly changed so that this lead paint applies only where the greatest lead consumption risk exists—that is public housing.

The conference report includes several provisions which are very important to rural housing and my State of Nebraska in particular. The compromise includes $1.775 billion for rural housing loans, rural rental assistance funding of $275 million, $52.3 million for rural housing grants, and $26 million for rural displacement prevention. I am also pleased that a demonstration project by which up to 10 percent of guaranteed rural home loans would be earmarked for buyers earning up to 100 percent of median income in the rural areas. This provision will enable people who live in any community too small to be covered by FHA programs and meet the eligibility requirements to be eligible for the FmHA Guaranteed Loan Program.

Two other provisions of the housing bill warrant special comment. The first is section 312—a study of mortgage credit in rural areas. This provision requires the HUD Secretary to study the availability and use of funds for the purchase and improvements of residential real property in rural areas, particularly in communities that have populations of not more than 2,500 individuals. The study will provide much needed information on the availability of mortgage financing for the average middle class citizen in small rural communities. Section 417 called the home equity conversion mortgage insurance demonstration also deserves mention. This provision calls for a demonstration program allowing conversion of home equity mortgages for elderly homeowners. The provision creates an innovative approach using Government and private industry to allow the elderly to access the equity in their homes. This demonstration could provide a new revolutionary method for the elderly without adequate cash-flow to utilize the equity that they accumulated on their homes for their immediate cash needs. I applaud the sponsors of this provision and look forward to the results of the demonstration.

Mr. President, several other provisions have been altered or removed from the bill. I thank my colleagues who have participated in crafting this compromise. They have acted in a very responsible, fiscally accountable manner. This compromise now gives the Congress a housing bill that we can all support and I encourage my colleagues to do so.

Lastly, I want to publicly acknowledge the significant, meaningful, constructive efforts of Secretary of HUD Samuel Pierce and his able staff

to those needs in Kansas as well as many other areas of this country.

Finally, this amendment would authorize free-standing vouchers that will give this form of assistance a chance to prove its effectiveness. A 2-year rural voucher demonstration is also authorized. Vouchers are not the only answer to our Nation's housing problems, but they certainly should play an important role.

CONCLUDING REMARKS

In short, by voting for this amendment, we will be voting for fiscal responsibility. We will not be voting to maintain existing programs at levels that are too high, nor will we be creating a lot of new and unnecessary programs at a time of record deficits.

This amendment recognizes that one of the best things we can do to make housing more affordable is to keep our economy strong and healthy. Low inflation and low interest rates can do more for housing than all of the Government programs put together.

At the same time, this amendment represents a commitment to continue to reach out to those truly in need, including the elderly, the handicapped, and the homeless. And this amendment represents a commitment to do what we can to help keep housing affordable. I intend to do my part to see that we do.

I understand that, as amended, the White House has agreed to sign this bill into law.

Again, I congratulate my colleagues for their diligence in coming up with a workable compromise. I intend to support it and I urge other Senators to do the same.

Mr. SANFORD. Mr. President, I rise in support of S. 825, as amended, the Housing and Community Development Act of 1987. I commend the distinguished Housing Subcommittee chairman, Senator CRANSTON, and the distinguished ranking minority member, Senator D'AMATO, for their efforts in crafting a housing bill that accommodates the various concerns that have kept this bill from moving forward.

I would also like to commend the efforts of two distinguished minority members, Senators GARN and DOMENICI, who have helped craft this compromise bill and have deliberated with the administration. The compromise bill, pending today, would not be on the floor without their help. Staff should also be congratulated for their extraordinary efforts to move this bill forward. It is now incumbent on Senators to show their support for this legislation that will extend and revise current housing and community development programs and help meet the growing need for affordable housing.

The bill that we have before us today has undergone several changes since it was brought to the floor as a conference report. There are many provisions in the bill that Members will individually find hard to swallow. I for one, am very upset that rural housing programs are once again given short shrift. The current compromise bill would require rural housing needs to be met with housing vouchers, a big city remedy to a rural problem. Big cities are not happy, however, because they have had to compromise on the Nehemiah Homeownership Program.

But, as a whole it is not only a bill we can live with, but a bill that we need. It has been far too long—indeed over 6 years—since a freestanding housing bill has been enacted. During that time we have repeatedly seen periods in which the authority for the Federal Housing Administration's mortgage insurance programs has lapsed, forcing FHA to shut down. Such disruption has clearily harmed our housing industry and thousand of home buyers. At a time of tremendous volatility in the stock markets, I believe it is essential that we do what we can to provide stability and support to America's home buyers by granting FHA permanent authority.

The compromise bill we have before us is not a budget buster, nor was its predecessor. The pending version of S. 825 would authorize an aggregate budget authority level of $15 billion for fiscal year 1988 and $15.3 for fiscal year 1989. I must point out that the fiscal year 1988 level of $15 billion is $300 million below the fiscal year 1987 level, $600 million below the concurrent budget resolution for fiscal year 1988 and $900 million below the House-passed bill.

Indeed, far from being a budget-busting bill, conferees, with budgetary concerns constantly in mind, decided to reduce the authorizations in this bill below the amounts expected from appropriations. This bill authorizes less spending than has been appropriated for the new fiscal year in appropriations legislation for urban and rural housing that has already been passed by both the House and the Senate.

The $15 billion authorization called for in this conference report must be viewed against the backdrop of the more than 70-percent cuts that have taken place in housing and community development programs since 1980. In view of the huge waiting lists for public housing we are seeing throughout the country—and in my own State of North Carolina we have as many families on the waiting lists as are housed in some areas—and the growing number of homeless families and elderly people, we must simply provide at least the $15 billion called for to support our housing programs.

The importance of this bill must be recognized: it makes permanent the mortgage insuring authority of the FHA; it reauthorizes for 2 years the HUD and FmHA assisted housing programs; it reauthorizes the Community Development Block Grant and Urban Development Action Grant programs that have provided revitalization assistance to so many of our communities; it preserves our stock of low-income housing and it reauthorizes our rural housing programs.

In addition, I believe that the bill establishes a number of innovative demonstration programs that will assist communities in devising more comprehensive solutions to housing problems. I commend in particular a demonstration program conceived by the Charlotte Housing Authority in my home State of North Carolina. That program, entitled the "Public Housing Comprehensive Transitional Demonstration Program," is designed to foster better coordination between our Federal housing programs and other Federal programs.

The transition program will allow participants to continue to live in public housing while receiving assistance from a variety of programs, including remedial education, completion of high school, job training and preparation assistance, substance abuse treatment and counseling, training in homemaking skills, or training in money management. Those participating in this demonstration would not be forced to move out of public housing the moment their income rises above the levels traditionally permitted for public housing residents, but would be permitted to stay put for a limited period while preparing for the transition to private housing. The concept behind the demonstration is one I am sure we can all embrace: removing the obstacles into the labor and private housing markets for our low-income families.

Mr. President, the legislation also contains a number of provisions to increase the efficiency of our housing programs and to expand the home ownership opportunities for residents of public housing. While the compromise bill is not perfect, I believe it deserves our solid support. It is fairly close to the Senate's original version of the bill, which passed this body by a solid vote of 71-27. It is a bipartisan bill that meets the needs of a wide variety of people and places. I again commend Senators CRANSTON, D'AMATO, DOMENICI and GARN on the fine job they have done in bringing this legislation to the floor and urge my colleagues to support it.

Mr. SASSER. Mr. President, as a member of the Housing Subcommittee, I rise in strong support of this amendment to S. 825, the Housing and Community Development Act of 1987. The alterations made by this amendment are significant. There is no longer a budgetary issue that can raised concerning this bill. I commend my colleagues in formulating this compromise on this important bill.

The Housing and Community Development Act of 1987 is the first significant housing bill in 7 years—it is legislation that is long overdue. Indeed, the bill contains several critical provisions, particularly to assist persons in affording homes and to aid economically distressed communities.

Mr. President, as important as this bill is, it just begins to address the mammoth housing problem facing America. This legislation really only sets the stage for the broader, fundamental reassessment of our national housing policy, that the Housing Subcommittee will conduct in the months ahead. It is our goal to comprehensively evaluate the role of the Federal Government in the provision of our Nation's housing. And to attempt to develop new approaches to both new and old problems.

Mr. President, housing is one of the biggest problems facing this country. Since 1970, housing prices have risen at a rate four times higher than incomes. Further, indications are that a drastic shortage of affordable housing, particularly for low-income families, is developing. And for first time home buyers, the words "housing" and "affordability" are becoming a contradiction in terms. Since 1980, the rate of homeownership has declined, after rising steadily for 35 years—the greatest decline has been among home buyers 25 to 34 years old.

Mr. President, I am pleased that this bill makes many important contributions to the Nation's housing and community development needs. First, it provides for the permanent authorization of FHA mortgage insurance programs. We will not experience again the disgrace of having the FHA shut down six times in 1 year—for a total of 51 days. We will no longer impose needless costs on home buyers and sellers, and the Nation's real estate industry.

Second, Mr. President, the bill prohibits the imposition of user fees on the activities of the Government sponsored secondary mortgage market agencies. I am proud that I fought against user fees in both the Budget and Banking Committees. The proposals to impose user fees were a blatant attempt by the administration to tax individuals and financial institutions for using the self-funding Federal credit agencies. Mr. President, I am pleased that as a result of this bill the budget will not be balanced at the further expense of the homeownership aspirations of young Americans.

Another provision of this bill, the development of which I was very much involved, and take particular pride in, was the change in the section formula for the UDAG Program. Over the past few years the UDAG Program has been successful in assisting distressed urban communities with a unique public-private cooperative approach. UDAG's provide leverage to entice and expand private sector development, create jobs and stem the spiral of urban decay. Since 1978, every dollar spent by the UDAG Program has been matched by $6 from the private sector.

However, in recent years as the money available for this worthy program became limited, many projects which were eligible under the existing selection criteria could not be funded. Unfortunately, many of the most productive, job creating projects went without funding. Consequently, Mr. President, I worked with several of my distinguished colleagues in developing a formula which places greater emphasis on projects designed to relieve economic distress in a local community—the focus of the UDAG Program when enacted.

Mr. President, this bill contains many other worthy and notable provisions which are designed to enhance our Nation's housing opportunities an its communities. Among other things, the bill provides expanded authority for the FHA to insure adjustable rate mortages—a program which will be of great assistance to home buyers. It authorizes a demonstration program to expand the availability of home equity conversion mortgages—a means for the elderly to gain needed funds from their most valuable asset, their home. In the area of public housing, the bill would permit tenants to form corporations for the purpose of managing their projects, and on a demonstration basis, even allow tenants to own their own projects. And the bill authorizes funds for another demonstration program to assist housing authorities in providing child care services.

In sum, Mr. President, this is vitally important legislation and is long over due. Our Nation's housing problem is serious and worsening; it deserves our deepest commitment. This bill is an important first step. I yield the floor.

Mr. RIEGLE. Mr. President, I rise today to support the amendment offered by the distinguished senior Senator form California [Mr. CRANSTON] and to compliment him on his role in bringing this bill before the Senate.

I want to take a few moments to impress upon my colleagues the importance of passing a housing bill at this time.

Mr. President, it has been 7 years since the Senate has passed an independent, free standing housing bill. Yet, during the same period we have seen valuable community and economic development programs like CDBG and UDAG targeted for elimination or crippled by severe funding cuts. Sadly, housing assistance for low-income people has decreased by 70 percent, and elderly housing opportunities have decreased by over 80 percent during the same period.

What we have ended up with is a hodgepodge of housing and economic development programs whose objectives have been blurred and whose tasks have been made much more difficult through repeated budget cuts.

In my opinion, we need a housing bill now to bring stability and restore direction to our Nation's housing and economic development programs. We need to reassure those individuals and young families who rely on FHA to finance their homes that the needless shut downs of FHA will not be repeated. We need to reassure the poor and the elderly that housing opportunities will continue to be available to them and their families. We need to reassure our Nation's cities that vital community development programs like UDAG and CDBG will be there to help them rebuild and bring economic opportunities to their communities.

I think the Senate can send that message today if we pass this legislation, and I urge all my colleagues to vote for this bill.

Mr. President the legislation before us today makes some very important changes to our Nation's housing and community development programs, and I would like to take just a moment to highlight some of these.

PERMANENT FHA AUTHORITY

This legislation will permanently extend FHA lending authority and will avoid the needless disruption in home mortgage finance that plagued FHA during 1986. As many of my colleagues may recall, during the last 2 years Congress has had to pass a series of stop-gap, short-term bills to extend authority for FHA insurance and other programs.

Despite our best efforts, FHA insurance shut down six times during 1986 for a total of 51 days and that was at a time when demand for FHA insurance has been the highest in history, at a time when 5,000 to 10,000 applications were being submitted every day.

These disruptions were simply irresponsible and must not be allowed to be repeated. By adopting this provision, we are taking a major step in reassuring American homebuyers and the home mortgage finance industry that such disruptions will never occur again.

COMMUNITY AND ECONOMIC DEVELOPMENT

Vital community development programs like the Community Development Block Grant [CDBG] Program and the Urban Development Action Grant [UDAG] Program are reauthorized for 2 additional years. Both programs will be funded at their current appropriated levels of $3 billion and $225 million respectively.

As many of my colleagues will recall, these programs have been the repeated targets of budget cutting proposals. I have opposed those cuts in the past, and I am delighted that the conferees

have decided to maintain these programs at their current levels.

The bill before us also contains necessary changes to the UDAG selection criteria to allow at least 35 percent of the grant fund to be awarded on the basis of project merit only. These changes are similar to legislation, S. 1133, that I introduced in the 99th Congress, and I believe that they will do much to restore broad political support for the UDAG Program.

GREAT LAKES EROSION RELIEF

An important new provision will assist families whose homes are in danger of falling into the Great Lakes. It will allow homeowners who qualify for Federal Flood Insurance Program [FFIP] to make a claim for up to 40 percent of the value of their home to relocate it behind a 30- or 60-year erosion line.

This additional coverage is a common sense approach to a very difficult problem. Homeowners win because they no longer have to sit idly by and watch their homes fall into the water before making a claim under the FFIP. The Federal Government wins because the amount of the claim is reduced by more than half since the cost of relocation is substantially below the cost of paying the full claim. The environment wins by promoting a policy that moves development back from our Nation's shorelines.

This provision has the support of the Association of State Floodplain Managers, Inc., the Coastal State Organization, the Center for the Great Lakes, the Coastal Alliance, the National Wildlife Federation, and the Sierra Club, Coastal Committee.

CHILD CARE IN PUBLIC HOUSING

Testimony before the Housing Subcommittee has shown that an increasing number of families with young children are seeking housing assistance. The bill responds to this new challenge by authorizing a $5 million demonstration program for child care in public housing.

The provision adopted by the conferees is similar to legislation I have introduced in both the 99th and 100th Congress and is based on a successful model already in place that allows nonprofit organizations to conduct before and after school child care in public schools.

ENTERPRISE ZONE LEGISLATION

As a long time supporter of enterprise zone legislation, I am delighted that the conferees have included a provision that gives the Secretary of HUD the authority to designate up to 100 enterprise zones.

Although this provision only provides HUD with the administrative authority to create such zones, I believe is an important first step to further job creation and economic revitalization in our Nation's most distressed communities.

Mr. KERRY. Mr. President, I would like to commend the distinguished Senators from California and New York as well as the other Senate and House conferees to the housing authorization beofre us today, for the diligence they have displayed in bringing this measure to the floor for our consideration in such an expeditious manner. The legislation before us today is vitally important and is the first free-standing housing authorization passed since 1980. The Senate passed its version of the bill early in this session of the 100th Congress and the House did likewise shortly thereafter. While I believe that the original, better Senate version met this Nation's housing needs I support the bill before us today and urge my colleagues to join in its passage.

As most of my colleagues know, the Federal Government has undertaken a massive disinvestment in housing, forcing on the Nation at large, a crisis of enormous proportions. Since 1980, Federal funding levels for housing have been reduced by more than 70 percent. This crisis in decent, affordable housing affects not only low-income families, but the handicapped, the elderly and middle-income families as well and has proven to be one of the fundamental causes of our current homelessness problem. The legislation before us today attempt to stem the tide of disinvestment by providing for the smooth and continued operation of existing housing and community development programs. The 2-year authorization of all but a very few programs provided by this bill will go a long way toward providing a sense of stability and continuity not only to these vital programs but also to the States and localities that administer them, that have limped along on stopgap authorizations since 1980.

In addition to reauthorizing housing and community development programs with adjustments to comply with the budget summit agreement, the bill contains a number of other important provisions. First, it provides the FHA with permanent insurance authority. I do not have to remind my colleagues of the disaster that ensued last year when the FHA was forced to shut down six times for a total of 51 days when Congress failed to pass the FHA extension legislation. Permanent authority for the FHA will eliminate this as a possibility in the future.

The bill also prohibits fee increases that have been proposed to reduce Federal support for the Nation's home mortgage system; provides for a fairer project selection system for the Urban Development Action Grant [UDAG] Program; allows for the testing of new approaches to the management of public housing; and implements the Fair Housing Initiatives Program.

I regret that the Nehemiah Homeownership Grant Program has been reduced to the 2-year authorization with limited sums of $25 million in fiscal year 1988 and $100 million in fiscal year 1989. The program will, I am sure, prove itself over the next 2 years and be reauthorized rather than permanently sunset at the end of this 2-year period. Like the Boston and Massachusetts Housing Partnership Programs, Nehemiah builds on the initiatives and commitments of local and/or State participation to create much needed housing stock for a range of citizens.

Equally as important, Mr. President, this bill provides us with the breathing room necessary to begin to take a fresh look at our national housing policy and to formulate comprehensive housing legislation. I know that my distinguished colleague from California, Senator CRANSTON, has indicated that this will be one of his top legislative priorities as chairman of the Housing Subcommittee during the coming months and I would like to express my support for his efforts in this regard and my willingness to assist that effort in whatever ways are appropriate.

Mr. President, no area of development is more crucial to our national well-being than housing. We need enough quality housing to meet the needs of our citizenry; it must be affordable to all income groups; it must suit a great variety of needs and preferences and it must be located reasonably close to where jobs are. The economic health of our communities and the well-being of our citizens depend in large part on stimulating a better performance in the housing market. This effort will require a renewed commitment on the part of the Federal Government to the goal of providing a decent and suitable living environment for every American. The bill before us today goes a long way toward accomplishing this goal. I reiterate my wholehearted support for the measure and urge my colleagues to pass it expeditiously.

Mr. CHAFEE. Mr. President, shortly the Senate will consider a compromise housing bill which is a sound and reasonable response to this year's challenge in housing: To renew and update our basic housing programs in a way that responds to the need but is fiscally responsible. The package before us today fills that bill, and I urge my colleagues to give it their support.

I'd like to commend Senators D'AMATO, ARMSTRONG, CRANSTON, DOMENICI, and GARN for their work in bringing this bill to the floor. It is a substantive, good-faith effort to address each of the objections that was raised to the housing conference report considered in the Senate last month. In that regard, it is an extraordinary agreement, and deserves the support of the full Senate.

This bill differs in several key respects from the conference report, and I'd like to outline briefly some of the changes that have been made.

First, the technical problem with the conference report that gave rise to a budgetary point of order has been resolved. As my colleagues will recall, the conference report called for a small amount—$47 million—of direct spending, that is, spending that is not subject to further appropriations. This made the bill technically subject to a point of order which ultimately prevented us from considering it on its merits.

In the new bill, this $47 million of direct spending has been dropped. The Budget Committee has examined the bill, and has assured us that it is in complete compliance with the Budget Act.

Several of the new programs and provisions in the conference report were criticized as too costly or ill-advised. In most cases, these have simply been dropped. For example, this bill eliminates the controversial provision requiring immediate removal of lead-based paint if HUD failed to meet its deadline for a required report on this subject. Also eliminated from the bill are two new programs that were in the conference agreement—the Hiler-Lehman Rural Housing Grant Program, and a program to prevent defaults on federally insured apartment buildings. Provisions allowing rents to be set at less than 30 percent of income in certain circumstances have been dropped, as have the controversial provisions pertaining to the salaries of former CETA workers. Finally, the new bill recognizes the need to eliminate programs that are no longer working as intended, by terminating the section 235 homeownership program at the end of fiscal year 1989.

In other cases, controversial provisions have been substantially modified in the spirit of compromise. For example, some objected to the Nehemiah program as too costly. This bill scales the program back significantly, lowering the authorization level to $25 million in the first year, $100 million in the second year, and imposing a 2-year sunset. Some objected to the requirement that cities provide replacement housing for low-income tenants displaced by CDBG or UDAG projects. This bill refines that provision by limiting assistance to those that are directly displaced, and to cases where displacement is caused by luxury development, that is, developments that do not primarily benefit low and moderate income people. The intent here is to avert instances we have seen in which affordable housing was razed—using Federal grant money—to make way for a luxury hotel or shopping center. In my view, this refinement clarifies the uncertainties of the original provision and makes it one which most Senators should be able to support.

This bill also addresses the larger budgetary charges that were levied against the conference report. As my colleagues will remember, OMB had charged that the conference report would cost some $4 billion more than the $15 billion CBO estimate. This discrepancy was largely the result of double-counting; that is, OMB counted as add-ons items which the conferees had intended to be paid for within the bill's $15 billion ceiling. The new bill remedies this problem by making it absolutely clear that such items would be funded out of the $15 billion total for the bill.

Another objection that was raised was the authorization of "such sums as may be necessary" for three programs. In all three instances, this has been changed to specified funding levels—and very modest ones at that. These amounts are also included in the $15 billion authorization ceiling.

Mr. President, this reauthorization bill is long overdue. Congress has not passed a free-standing housing bill since 1980; since that time, funding for the housing assistance programs of the Department of Housing and Urban Development, or HUD, has dropped by 70 percent. Last year alone, the mortgage insurance authority of the Federal Housing Administration lapsed six times as a result of impasses here in Congress, causing needless disruption in the markets and countless lost or delayed housing opportunities.

This bill addresses those issues head on. It makes permanent the mortgage insurance authority of FHA, so that there will be no more agency shutdowns. It reauthorizes HUD housing assistance programs in a prudent manner, freezing spending levels this year and allowing room for inflation growth next year. This includes $622 million in section 202 loan authority, permitting construction of 12,000 new units for the elderly and handicapped; $337 million for new construction of public housing; $2.34 billion for rental assistance through the Section 8 Program; and $400 million for the rehabilitation of existing but uninhabitable units. It also continues the Community Development Block Grant Program at its current $3 billion level.

Mr. President, this compromise bill truly represents the best of both worlds. It renews our national commitment to decent and affordable shelter for all Americans. But it is also a reasonable bill in terms of costs: It authorizes funding levels which are $360 million below a freeze level from fiscal year 1987, according to CBO estimates. This is $900 million below the House-passed bill, and $600 million below the Senate-passed bill.

It also addresses the objections to the orginal conference report in a very constructive way. I supported the conference report as a strong and sound response to housing needs. With this new proposal, we have addressed the concerns that were raised without sacrificing the strengths of the original bill.

This bill is one case in which compromise has consistently improved the product. It is a solid, well-reasoned package which successfully reconciles the conflicting objectives of fiscal restraint and housing assistance for those in need. As such, it deserves our resounding support.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the motion to concur in the House amendments with a further Senate amendment.

The motion was agreed to.

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

Mr. D'AMATO. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PREVENTING FRAUD AND ABUSE IN HOUSING AND URBAN DEVELOPMENT PROGRAMS

Mr. CRANSTON. Mr. President, there is one tidying up matter that needs to be taken care of. I send a bill to the desk and ask for its immediate consideration. This bill has been cleared on both sides as part of the compromise agreement on the housing authorization bill. This separate piece of legislation addresses fraud and abuse in housing and urban development programs.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1994) to prevent fraud and abuse in housing and urban development programs.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill? If not, the bill will be considered as having been read the second time and the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. CRANSTON. Mr. President, this separate piece of legislation addresses fraud and abuse in housing and urban development programs. The bill incorporates section 206 of S. 825 as originally passed by the Senate in March of this year. The provision was a noncontroversial item which was included at the behest of the administration. However, the conference report deleted the provision because of jurisdictional objections from the House Ways and Means Committee.

The bill would allow the Department of Housing and Urban Development to obtain the Social Security number or employer number and a signed consent form from program participants to determine their eligibility. This information would permit HUD to verify current wage and benefit information and avoid fraud and abuse. To protect the applicants, provisions have been included to prevent the release of this information to unauthorized individuals.

We hope that the passage of this provision as a separate piece of legislation will allow the House to address this issue promptly when they return from recess.

REPORT LANGUAGE FOR SEPARATE LEGISLATION

In Preventing Fraud and Abuse in Housing and Urban Development Programs:

DESCRIPTION

Subsection (a) would allow HUD the option of obtaining the social security number or employer number of programs applicants or participants as a condition of initial or continuing eligibility in HUD housing programs.

Subsection (b) would allow HUD the option of obtaining a consent form signed by the program applicant or participant to request current or previous employers to verify salary and wage information pertinent to the applicant's or participant's eligibility or level of benefits.

Subsections (c) (1), (2), and (3) would define the following terms: Secretary, applicant, participant, and public housing agency.

Subsection (d)(1) would allow HUD access to wage or unemployment compensation information contained in State agency records. The information could be used only to determine an individual's eligibility for HUD assistance. The subsection would also give the Secretary of Labor the authority to withhold payment to a state until it has complied with this provision.

Subsection (d)(2) would establish a procedure for protecting the applicant or participant from the improper use of information.

Subsection (d)(3) would impose a penalty on any person who knowingly and willfully requests or obtains, under false pretenses, information described in this section or any person who knowingly and willfully disclose such information to an individual not authorized to receive it.

Subsection (d)(4) would allow this section to take effect on September 30, 1988 or, at a state's option, any date before September 30, 1988 which is more than 90 days after the date of enactment of this section. Subsections (d)(2) and (d)(3) would take effect 90 days after the date of enactment of this section.

COMMENT

The sponsors believe that applicants and tenants who are adversely affected by violations of these statutory provisions should have a cause of action to enforce the statute in Federal court. In the past, such causes of action were not explicitly specified in the statute because program beneficiaries were thought to be able to protect their interest under the Administrative Procedure Act, section 1983 and the implied cause of action doctrine. Because the courts have been somewhat unreceptive to private causes of action, the bill would make this one explicit. This change in law is not intended to weaken any right of program beneficiaries to enforce their benefits previously or in the future.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PREVENTING FRAUD AND ABUSE IN HOUSING AND URBAN DEVELOPMENT PROGRAMS.

(a) IN GENERAL.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to assure that the level of benefits provided under these programs is correct, the Secretary may require that an applicant or participant (including members of an applicant's or participant's household) disclose his or her social security number or employer identification number to the Secretary.

(b) APPLICANT AND PARTICIPANT CONSENT.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving initial and periodic review of an applicant's or participant's income, and to assure that the level of benefits provided under the program is correct, the Secretary may require that an applicant or participant (including members of an applicant's or participant's household) sign a consent form approved by the Secretary authorizing the Secretary, or the public housing agency or owner responsible for determining eligibility or level of benefits to request current or previous employers to verify salary and wage information pertinent to the applicant's or participant's eligibility or level of benefits. This consent form shall not be used to request taxpayer return information protected by section 6103 of the Internal Revenue Code of 1986.

(c) DEFINITIONS.—As used in this section:

(1) The term "Secretary" means the Secretary of Housing and Urban Development.

(2) The terms "applicant" and "participant" shall have such meanings as the Secretary by regulation shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials and officers of lending institutions.

(3) The term "public housing agency" means any agency described in section 3(b)(6) of the United States Housing Act of 1937.

(d) ACCESS TO STATE EMPLOYMENT RECORDS.—

(1) AMENDMENT TO SOCIAL SECURITY ACT.—Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h)(1) The State agency charged with the administration of the State law—

"(A) shall disclose, upon request and on a reimbursable basis, to officers and employees of the Department of Housing and Urban Development any of the following information contained in the records of such State agency with respect to individuals applying for or participating in any housing assistance program administered by the Department—

"(i) wage information, and

"(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual, and

"(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of determining an individual's eligibility for benefits, or the amount of benefits, under a housing assistance program of the Department of Housing and Urban Development.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he or she is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he or she shall make no further certification to the Secretary of the Treasury with respect to such State.".

(2) APPLICANT AND PARTICIPANT PROTECTIONS.—(A) In order to protect applicants for, and recipients of, benefits under the programs of the Department of Housing and Urban Development from the improper use of information obtained pursuant to the requirements of section 303(h) of the Social Security Act from the State agency charged with the administration of the State unemployment compensation law, no Federal, States, or local agency, or public housing agency, or owner responsible for determining eligibility or level of benefits receiving such information may terminate, deny, suspend, or reduce any benefits of an individual until such agency or owner has taken appropriate steps to independently verify information relating to—

(i) the amount of the wages or unemployment compension involved,

(ii) whether such individual actually has (or had) access to such wages or benefits for his or her own use, and

(iii) the period or periods when, or with respect to which, the individual actually received such wages or benefits.

(B) Such individual shall be informed by the agency or owner of the findings made by the agency or owner on the basis of such verified information, and shall be given an opportunity to contest such findings, in the

same manner as applies to other information and findings relating to eligibility factors under the program.

(3) PENALTY.—Any person who knowingly and willfully requests or obtains any information concerning an individual pursuant to the authority contained in section 303(h) of the Social Security Act 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 paragraph shall include an officer or employee of the Department of Housing and Urban Development, and officer or employee of any public housing agency, and any owner (or employee thereof).

(B) Any indiviual affected by (i) a negligent or knowing disclosure of information referred to in this section or in section 303(h) of the Social Security Act about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, section 303(h), or any implementing regulation, or (ii) any other negligent or knowing action that is inconsistent with this section, section 303(h), or any implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any officer or employee of any public housing agency or owner (or employee thereof) responsible for any such unauthorized action. The district court of the United States in the district in which the affected individual resides, or in which such unauthorized action occurred, or in which the individual 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.

(4) EFFECTIVE DATES.—(A) The amendment made by subsection (d)(1) shall take effect on September 30, 1988, except that at the initiative of a State or an agency of the State, and with the approval of the Secretary of Labor, the amendment may be made effective in such State on any date before September 30, 1988, which is more than 90 days after the date of enactment of this section.

(B) The effective date of subsections (d)(2) and (d)(3) shall be 90 days after the date of enactment of this section.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. D'AMATO. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. I thank all concerned.

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

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

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader, Mr. ARMSTRONG, if Calendar Orders numbered 118 and 249 are cleared for indefinite postponement, and if Calendar Order No. 495 is cleared for passage on his side?

Mr. ARMSTRONG. Mr. President, if the leader will yield, the answer to that is yes, we are ready to go on all three of those items.

Mr. BYRD. I thank the Senator.

MEASURES INDEFINITELY POSTPONED

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Orders numbered 118 and 249 be indefinitely postponed.

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

CREDIT AND CHARGE CARD DISCLOSURE ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 495.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 515) to provide for more detailed and uniform disclosure by credit card and charge card issuers with respect to information relating to interest rates and other fees which may be incurred by consumers through the use of any credit or charge card.

The Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Credit and Charge Card Cost Disclosure Act".

SEC. 2. CREDIT CARD AND CHARGE CARD COST DISCLOSURE REQUIREMENTS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end thereof the following new subsections:

"(c) DISCLOSURE IN CONNECTION WITH CREDIT CARD AND CHARGE CARD APPLICATIONS AND SOLICITATIONS.—

"(1) DIRECT SOLICITATION.—

"(A) MAILED MATERIALS.—An application to open a credit card account for any person under an open end consumer credit plan, or a solicitation to open such an account without requiring an application, that is mailed to consumers shall disclose clearly and conspicuously the following information, to the extent applicable:

"(i)(I) The annual percentage rate or rates applicable to extensions of credit under such credit plan.

"(II) Where an extension of credit is subject to a variable rate, the fact that the rate is variable, the annual percentage rate in effect at the time of the mailing, and how the rate is determined.

"(III) Where more than one rate applies, the range of balances to which each rate applies.

"(ii) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of a credit card and any transaction charge imposed in connection with use of the card to purchase goods or services.

"(iii) The date by which or the period within which any credit extended under such credit plan for the purchase of goods or services must be repaid to avoid incurring a finance charge, and, if no such period is offered, such fact shall be clearly stated.

"(iv) The name of the balance calculation method used in determining the balance on which the finance charge is computed if the method used has been defined by the Board, or a detailed explanation of the balance calculation method used if the method has not been so defined. In promulgating regulations under this clause, the Board shall define and name no more than the 5 balance calculation methods determined by the Board to be the most commonly used methods.

"(B) TELEPHONE SOLICITATIONS.—In a telephone solicitation to open a credit card account, the person making the solicitation shall orally disclose the information referred to in subparagraph (A). The preceding sentence does not apply if—

"(i)(I) the card issuer does not impose a fee described in subsection (c)(1)(A)(ii), or

"(II) in connection with telephone solicitations, the card issuer does not impose such a fee unless the consumer signifies acceptance by using the card;

"(ii) the card issuer discloses clearly and conspicuously the information referred to in subsection (c)(1)(A) within 30 days after the consumer requests the card, but in no event later than with delivery of the card; and

"(iii) the card issuer discloses clearly and conspicuously that the consumer is not obligated to accept the card or account and the consumer will not be obligated to pay any of the fees or charges disclosed unless the consumer elects to accept the card or account by using the card.

"(2) OTHER MATERIALS.—

"(A) IN GENERAL.—An application to open a credit card account for any person under an open end consumer credit plan, or a solicitation to open such an account without requiring an application, that is made available to the public or contained in catalogs, magazines, or other publications, shall either contain the disclosures required by paragraph (1)(A), or disclose clearly and conspicuously that—

"(i) there are costs associated with the use of credit cards; and

"(ii) the applicant may contact the creditor to request disclosure of the information described in paragraph (1)(A) by calling a toll free number or by writing to an address, specified in the application.

Upon receipt of a request for any of the information described in paragraph (1)(A), the card issuer or its agent shall disclose all of the information described in paragraph (1)(A).

"(B) EFFECT OF PARTIAL DISCLOSURE.—Where an application or solicitation described in subparagraph (A) discloses any one or more of the items described in paragraph (1)(A), it shall disclose all such items in accordance with paragraph (1)(A).

"(C) DATING MATERIALS.—An application or solicitation that is subject to this paragraph

and that discloses the items described in paragraph (1)(A) shall disclose such items clearly and conspicuously and in a manner that is accurate on the date of printing, and shall disclose clearly and conspicuously the date that the information is accurate and that the information disclosed is subject to change.

"(3) CHARGE CARD APPLICATIONS AND SOLICITATIONS.—

"(A) IN GENERAL.—Any application or solicitation for a charge card shall disclose clearly and conspicuously the following information, to the extent applicable:

"(i) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of a charge card and any transaction charge imposed in connection with use of the card to purchase goods or services.

"(ii) A statement that charges incurred by use of the charge card are due and payable upon receipt of a periodic statement rendered for such charge card account.

"(B) ISSUERS OF CHARGE CARDS WHICH PROVIDE ACCESS TO OPEN END CONSUMER CREDIT PLANS.—If a charge card permits the card holder to receive an extension of credit under an open end consumer credit plan, which is not maintained by the charge card issuer, the charge card issuer may provide the information described in subparagraph (A) in lieu of the information required to be provided under paragraph (1) or (2) with respect to any credit extended under such plan, if the charge card issuer discloses clearly and conspicuously to the consumer in the application or solicitation that—

"(i) the charge card issuer will make an independent decision as to whether to issue the card,

"(ii) the charge card may arrive before the decision is made with respect to an extension of credit under an open end consumer credit plan, and

"(iii) approval by the charge card issuer does not constitute approval by the issuer of the extension of credit.

The information required to be disclosed under paragraph (1)(A) shall be provided to the charge card holder by the creditor which maintains such open end consumer credit plan before the first extension of credit under such plan.

"(C) CHARGE CARD DEFINED.—For the purposes of this subsection, the term 'charge card' means a card, plate, or other single credit device that may be used from time to time to obtain credit which is not subject to a finance charge.

"(d) DISCLOSURE PRIOR TO RENEWAL.—

"(1) IN GENERAL.—A card issuer that imposes any fee described in subsection (c)(1)(A)(ii) shall transmit to a consumer at least 30 days prior to the scheduled renewal date of the consumer's credit or charge card account a clear and conspicuous disclosure of—

"(A) the date by which, the month by which, or the billing period at the close of which, the account will expire if not renewed,

"(B) the information described in subsection (c)(1)(A) that would apply if the account were renewed, and

"(C) the method by which the consumer may terminate continued credit availability under the account.

"(2) TIME FOR DISCLOSURES.—The disclosures required by this subsection may be provided prior to posting the fee to the account, or if the consumer is given a 30-day period to avoid payment of the fee or to have the fee recredited to the account in any case where the consumer does not wish to continue the availability of the credit, with the periodic billing statement first disclosing that the fee has been posted to the account.

"(3) SHORT-TERM RENEWALS.—The Board may by regulation provide for fewer disclosures than are required by paragraph (1) in the case of an account which is renewable for a period of less than 6 months.".

SEC. 3. CIVIL LIABILITY.

Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640) is amended—

(1) by striking out "in section 127" in the third sentence and inserting in lieu thereof "in subsections (a) and (b) of section 127"; and

(2) by inserting after the third sentence the following: "In connection with the disclosures referred to in section 127(c) or section 127(d), a card issuer shall have a liability under this section only to a cardholder who pays a fee described in section 127 (c)(1)(A)(ii) or who uses the credit card.".

SEC. 4. COORDINATION WITH OTHER LAWS.

Section 111 of the Truth in Lending Act (15 U.S.C. 1610) is amended—

(1) in subsection (a)(1), by striking out "Chapters 1, 2, and 3" and inserting in lieu thereof "Except as provided in subsection (e), chapters 1, 2, and 3"; and

(2) by adding at the end thereof the following new subsection:

"(e) CERTAIN CREDIT CARD APPLICATION DISCLOSURE PROVISIONS.—The provisions of sections 127(c) and 127(d) shall supersede any provision of the law of any State relating to the disclosure of information in any credit card or charge card application or solicitation which is subject to the requirements of section 127(c) or any renewal notice under section 127(d), except that—

"(1) nothing in this subsection affects any State law enacted or used to enforce the requirements of section 127(c) or section 127(d), and

"(2) any item of information with respect to credit or charge card solicitations, applications, and renewals that—

"(A) is or would be required to be disclosed by a State law which was in effect, or by a bill which one house of a State legislature had passed, as of December 2, 1987, and

"(B) is in addition to the disclosures required by sections 127(c) and 127(d),

shall be required to be disclosed on and after the date on which such State adopts a law reenacting such earlier State law, or on which such bill becomes law. Such date shall be after December 2, 1987, but not later than December 2, 1989.".

SEC. 5. REPORTING TO THE BOARD OF GOVERNORS.

Section 136 of the Truth in Lending Act (15 U.S.C. 1646) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

"(b) The issuer of any credit card shall submit semiannually to the Board the information required to be disclosed by section 127(c). The Board shall make such information available to the public upon request, and shall report such information annually to Congress."; and

(3) by striking out "subsection (a)" in subsection (c), as redesignated, and inserting in lieu thereof "subsections (a) and (b)".

SEC. 6. INSURANCE PROVIDED IN CONNECTION WITH CERTAIN OPEN END CREDIT CARD PLANS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end thereof the following:

"(e) INSURANCE IN CONNECTION WITH CERTAIN OPEN END CREDIT CARD PLANS.—

"(1) CHANGE IN INSURANCE COVERAGE.—(A) Whenever a card issuer that offers any guarantee or insurance for repayment of all or part of the outstanding balance of an open end credit card plan proposes to change the person providing that guarantee or insurance, the card issuer shall send each insured consumer written notice of the proposed change not less than 30 days prior to the change.

"(B) Whenever a card issuer proposes to make a change described in subparagraph (A), the card issuer shall send to the insurance commissioner of the appropriate State written notice of the proposed change not less than 30 days prior to such change.

"(2) SPECIAL RULE FOR ADVERSE CHANGES.—In any case where a proposed change described in paragraph (1) will result in new guarantee or insurance coverage which is not at least equivalent in cost, amount, terms, and conditions as the current guarantee or insurance, the cardholder may continue the guarantee or insurance only if the cardholder affirmatively files a written election to continue to purchase such guarantee or insurance.

"(3) STATE NOTIFICATION REQUIREMENT.—If the law of the appropriate State requires notification and reenrollment of the consumer, the card issuer shall comply with such State notification and reenrollment requirement rather than the requirements under paragraphs (1) and (2).

"(4) 'APPROPRIATE STATE' DEFINED.—For purposes of this subsection, the 'appropriate State' is the State in which the card issuer has its principal place of business, except that where a majority of the cardholders under a card issuer's open end credit plan resides in a State other than the State where the card issuer has its principal place of business, the appropriate State is that other State.".

SEC. 7. EFFECTIVE DATE.

(a) SECTION 2 REGULATIONS.—Regulations required to be prescribed by the Board under the amendment made by section 2 of this Act shall—

(1) take effect not later than the end of the 120-day period beginning on the date of enactment of this Act; and

(2) apply only with respect to applications, solicitations, and other material distributed after the end of the 120-day period beginning after the end of the period referred to in paragraph (1).

Any creditor may, at its option, comply with the amendment made by section 2 of this Act after the publication of final regulations and prior to the effective date of such regulations, in which case the amendment made by section 2 of this Act shall be fully applicable to such creditor.

(b) SECTION 6.—The amendment made by section 6 of this Act shall take effect on July 1, 1987.

SEC. 8. REPORTS TO THE CONGRESS.

Not later than 1 year after the regulations prescribed under section 6 of this Act become effective and annually thereafter, the Board of Governors of the Federal Reserve System shall transmit to the Congress a report containing—

(1) an assessment by the Board of the profitability of credit card operations of depository institutions, including an analysis of any impact of the amendments made by this Act on such profitability;

(2) a description of the methods of balance calculation being used by card issuers in

connection with open end credit plans and particularly on any changes in the types of balance calculation methods being used by card issuers; and

(3) the impact of the amendments made by this Act on the availability of credit (including credit cards) to low income consumers.

Mr. DODD. Mr. President, I rise in support of H.R. 515, the Credit and Charge Card Cost Disclosure Act.

As Christmas approaches, people's thoughts turn to gift giving—and credit cards. Why do they turn to credit cards? Because credit cards are what we so often use to pay for our Christmas gifts. Therefore, it is appropriate that the Senate pass H.R. 515, legislation designed to reduce the cost of using credit cards, before we adjourn.

The rationale for this bill lies in the numbers. Today, more than 105 million Americans own over 800 million credit cards of all kinds. We have VISA and Mastercards from banks, we have "charge" cards such as American Express, and we have store cards and gasoline cards. These cards have made it easier for us to purchase goods and services, but often at a price we do not fully appreciate.

In 1981, the prime rate exceeded 20 percent and the rate on 30-year mortgages was more than 18.5 percent. At the same time, credit card interest rates stood at slightly less than 18 percent.

While high credit card interest rates were justifiable during the time of high interest rates, it is hard—if not impossible—to justify such rates today. Since 1981, almost every major interest rate indicator has declined by about 50 percent. However, the national average for credit card interest rates remains above the 1981 average. The result has been record profits.

Over the past 2 years, the Consumer Affairs Subcommittee, which I now chair, has tried to determine how credit card interest rates continue to defy gravity. How could a market with literally thousands of card issuers behave in such a noncompetitive fashion? While we did not find any definitive answers, the source of the problems seems to lie in the history of the industry and the nature of the transactions. In part, because of State usury ceilings, until recently, there had been very little variation in the costs of credit cards and so both card issuers and cardholders alike came to not expect any. Moreover, because the cost of rolling over payments from month to month is not large—1 month's interest on rolling over $1,000 at 18 percent is only $15—people tended not to pay attention to the costs of different cards.

The way credit cards are sold may also have a lot to do with the lack of competition. In 1987, consumers will receive over 2,400,000,000 solicitations for credit cards, mostly through the mail. All of them tout the positive features of the cards. Very few of them mention the costs, primarily the annual fee and the interest cost if you don't pay on time.

H.R. 515 is designed to get this basic cost information to consumers before they decide which card to get. It requires disclosure of the annual fee, the annual percentage rate, the grace or free period before interest is charged, and the name of the balance calculation method. It also requires card issuers to report this basic information to the Federal Reserve Board semiannually. I hope that consumers, armed with the basic cost information in solicitations and hopefully provided with comparative cost information by the newspapers from the Fed data, will start shopping around. If that happens, we may well witness the first shopping spree that ever resulted in lower costs to consumers.

Mr. President, if this legislation achieves its goal, then maybe consumers will experience less of a headache when they have to pay their Christmas bills next year.

Mr. KERRY. Will the distinguished Senator from Connecticut yield for a question?

In reviewing this legislation, I note that section 4 of the bill, which provides for the coordination of this legislation with other laws that exist in the various States, has been amended to allow States which are considering or have passed legislation relating to credit card disclosure to continue to enforce the provisions of those statutes provided they are reenacted within 2 years.

Mr. DODD. The Senator is correct.

Mr. KERRY. My understanding of the measure, as amended by the Senator from North Carolina, is that to be eligible for such "grandfathering" of State legislation, the State statute must simply have passed one house of the State's legislature in some form before December 2, 1987. Thus, the Massachusetts legislation, H. 5796, sponsored by the Honorable Larry Alexander of the Massachusetts House and passed by that body on June 23, 1987 is eligible for reenactment under the terms of this legislation, as I understand it.

Mr. DODD. The Senator from Massachusetts is absolutely correct.

Mr. KERRY. I thank the Senator from Connecticut, and I commend him for the leadership he has demonstrated in bringing this very important consumer protection legislation to the Senate for consideration today.

Mr. GARN. Today the Senate passed the "Credit and Charge Card Cost Disclosure Act." This bill will provide consumers with the key terms concerning credit and charge card programs with each application. This comparison of credit card terms should enhance competition among card issuers and by letting the marketplace work, reduce costs to consumers.

Notwithstanding my support for the disclosure provisions of this legislation, I remain concerned about several other sections of the bill. In particular, I remain opposed to those sections of the legislation which would impose new reporting requirements on card issuers and the Federal Reserve Board. I believe that sections 5 and 8, which require the Federal Reserve Board to develop and submit to Congress a series of new reports on credit card programs, and to publish a listing of data for all card issuers in the country, represents an unnecessary waste of Federal resources.

I also have reservations about section 6 of the bill, which requires creditors offering certain types of insurance in connection with credit card programs to satisfy notice and reenrollment requirements when they wish to change insurance carriers. The laws of many States already require that consumers be notified when policy terms are changed. In addition, the reenrollment requirements may discourage card issuers from changing insurance carriers even if the overall change would be beneficial for consumers. As a result, this section is opposed by many insurance industry representatives as well as by card issuers.

As we proceed to final enactment of this legislation, I believe that we should carefully review the need for these provisions, which are not contained in the House passed version of this bill.

Mr. EXON. Mr. President, I join in support of H.R. 515 as it has been reported out of committee. I have long believed that interest rates on credit cards have stayed artificially high and that fair competition will help bring those rates down to realistic levels.

I would like to add that the bill contains a provision that I have been working on for some time. Section 6 of the bill requires that purchasers of credit-card insurance receive advance notice of the bank's intention to change the company that is providing that insurance. It further requires that the purchasers of the insurance be reenrolled in the event that a change in the terms of coverage is made when the insurance company is changed. Reenrollment is, however, only required if the new coverage is not equivalent in cost, amount, terms, or conditions to the old coverage.

Credit-card insurance of this type can be simply explained as follows. It is usually sold for a small monthly fee to the cardholder. The card issuer sells the insurance, collects the premiums, and keeps a portion of those premiums. The insurance company provides the insurance and receives the remainder of the premiums. Should the cardholder die or become unemployed, the

insurance company pays the outstanding balance on the card, usually directed to the lender.

This provision will help protect the interests of the credit-card insurance purchaser. The terms of the insurance to be sold to the cardholder are negotiated between the insurance company and the card issuer prior to being offered to their customers. The consumer does not sit at the table when those terms are negotiated. The consumer protects himself or herself by being knowledgeable about who is providing the insurance and about the terms of the insurance. Yet, insurance companies for this type of insurance have been changed by the card issuers with the consumer being notified after the fact. Consumers are entitled to know that their insurance is being changed prior to its actually being changed.

This provision also promotes fair competition. Card issuers will be required to reenroll customers only if changes not in the cardholder's benefit are made in the terms of the insurance. If the insurance company and card issuer, in effect, negotiate the cardholder's terms, then the cardholder must be brought back to the table through reenrollment. Banks and insurance companies can openly and fairly compete for business but cannot do so by shortchanging the consumer.

This provision was changed in several respects to accommodate the concerns of card issuers. They would, of course, prefer that there be no protection for the cardholder and that they be trusted to do what was best. But, it will be a simple and inexpensive task to notify cardholders of a change in insurance carriers. This provision strikes a careful balance between the legitimate concern of the card issuers and the protection through disclosure that cardholders should be provided.

Mr. GRAMM. Mr. President, as we consider this legislation today I would like to commend the Senator from Connecticut [Mr. DODD] for the consideration that he has given to all the various parties concerned with this legislation. I appreciate his willingness to modify the provisions of the bill where necessary. This bill has gone forward in a spirit of cooperation, and that spirit is continuing in the debate on this bill today in the Senate.

We are covering new ground with this legislation, so there are bound to remain bugs that need to be worked out as we go forward. I am concerned particularly that some more work needs to be done at the very least to refine the provisions of section 6 of the bill. As the language now stands I fear that it could impose unnecessary and burdensome notice requirements when a card issuer changes insurance carriers. It is not clear that the provision would provide any meaningful benefits to consumers. It would substantially increase the costs of making any such changes in insurance. That would tend to discourage innovation in these kinds of insurance products, innovation that could be beneficial to consumers. I always have a great deal of difficulty with anything that stifles innovation in the marketplace.

Section 6 of the bill, as currently drafted, could also discourage card issuers from changing carriers, since such a change could trigger the notification requirements of the bill. The bill could thereby have the unintended consequence of restricting competition among insurance companies offering insurance in connection with credit-card accounts. Credit-card issuers may then become, in effect, locked-in to their current insurance carriers, even when the carrier may not be offered competitive products. For these reasons, I understand, section 6, in its current form, is opposed by many insurance carriers and credit-card issuers alike.

I am also concerned about the requirement under the provisions of section 6 for positive action in order to maintain insurance coverage. I am worried that this requirement could lead to situations where credit-card issuers believe that they are covered by an insurer when in fact they are not because of their failure to indicate their intention to continue the altered policy.

I would like to make it clear that I am sympathetic to the goals of the legislation. I believe that taking care of these problems that I have cited would make this a better bill. I am not, however, offering an amendment to delete or modify section 6 today. I am hopeful that in the next few weeks improved language can be worked out and made a part of the bill in conference. I understand that the Senator from Connecticut has indicated a willingness to work out this problem and develop appropriate language. That would be in keeping with the spirit that Senator DODD has shown throughout the consideration of this bill, so I have every confidence that this will continue.

Having said that, I support adoption of the bill at this time and sending it to conference with the House.

THE CREDIT CARD AND CHARGE CARD DISCLOSURE ACT

Mr. KARNES. Mr. President, I wish to join my colleagues on the Banking Committee in urging swift passage of H.R. 515, the Credit and Charge Card Disclosure Act.

H.R. 515 promotes the timely disclosure to consumers of relevant interest rate and other cost information of credit cards. Consumers today receive numerous solicitations for credit cards but do not always receive basic cost information to evaluate card programs. The bill helps solve that problem and will enable consumers to do some comparison shopping among alternative credit card programs. As the Banking Committee's report suggests, additional information results in better informed consumers and a more efficient and competitive marketplace. People should know all the details up front before deciding to sign up for a card.

During the Banking Committee's markup of the legislation, I offered an amendment to section 6 of the bill regarding insurance sold in connection with credit card programs. This amendment was agreed to without objection by the committee. Such insurance provides, for example, life, disability, and involuntary unemployment coverages on outstanding credit card balances. My amendment requires that whenever a card issuer that offers such insurance proposes to change the insurance company providing the coverage, the card issuer must notify each insured cardholder and the appropriate insurance commissioner of the change. The notice must be in writing and given not less than 30 days prior to the change.

In the case of adverse changes, that is, when the new insurance coverage is not at least equivalent in cost, amount, terms, and conditions as the current insurance, the card issuer must obtain written approval from the cardholder which affirmatively states the cardholder's election to continue with the new coverage. As the committee's report indicates, this reenrollment requirement would be applicable whenever the new coverage would be more costly to the cardholder or when a significant term has been changed to the detriment of the consumer. For example, changes in the waiting period before benefits commence may be significant depending on the time changes made in such period or on the overall impact of such a change on insured cardholders as a group.

The amendment also provides that if an appropriate State requires notification and reenrollment, the card issuer shall comply with that requirement instead of the requirements of this bill. The appropriate State is the one in which the card issuer has its principal place of business. The only exception would occur where a majority of cardholders resided in another State, wherein, the issuer would comply with the requirements of that State.

My amendment was designed to protect the interests of cardholders by assuring that they are made fully aware of changes in insurers or changes made in insurance plans. Currently, many consumers merely receive notice of such changes after the fact. Through increased disclosure and more effective notice and other proce-

dures, the provision preserves consumer rights and promotes equitable competition without imposing undue burdens on card issuers.

H.R. 515 protects credit card customers from surprise or abrupt changes in the status of their cards. This legislation is a bill based on sound principles of consumers' rights, and it promotes the best defense against customer problems: an informed consumer.

I urge immediate passage of this bill, and I yield the floor.

The PRESIDING OFFICER. Are there amendments? If there be no amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

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

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

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 515), as amended, was passed.

H.R. 515

Resolved, That the bill from the House of Representatives (H.R. 515) entitled "An Act to provide for more detailed and uniform disclosure by credit and charge card issuers with respect to information relating to interest rates and other fees which may be incurred by consumers through the use of any credit or charge card", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Credit and Charge Card Cost Disclosure Act".

SEC. 2. CREDIT CARD AND CHARGE CARD COST DISCLOSURE REQUIREMENTS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end thereof the following new subsections:

"(c) DISCLOSURE IN CONNECTION WITH CREDIT CARD AND CHARGE CARD APPLICATIONS AND SOLICITATIONS.—

"(1) DIRECT SOLICITATION.—

"(A) MAILED MATERIALS.—An application to open a credit card account for any person under an open end consumer credit plan, or a solicitation to open such an account without requiring an application, that is mailed to consumers shall disclose clearly and conspicuously the following information, to the extent applicable:

"(i)(I) The annual percentage rate or rates applicable to extensions of credit under such credit plan.

"(II) Where an extension of credit is subject to a variable rate, the fact that the rate is variable, the annual percentage rate in effect at the time of the mailing, and how the rate is determined.

"(III) Where more than one rate applies, the range of balances to which each rate applies.

"(ii) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of a credit card and any transaction charge imposed in connection with use of the card to purchase goods or services.

"(iii) The date by which or the period within which any credit extended under such credit plan for the purchase of goods or services must be repaid to avoid incurring a finance charge, and, if no such period is offered, such fact shall be clearly stated.

"(iv) The name of the balance calculation method used in determining the balance on which the finance charge is computed if the method used has been defined by the Board, or a detailed explanation of the balance calculation method used if the method has not been so defined. In promulgating regulations under this clause, the Board shall define and name no more than the 5 balance calculation methods determined by the Board to be the most commonly used methods.

"(B) TELEPHONE SOLICITATIONS.—In a telephone solicitation to open a credit card account, the person making the solicitation shall orally disclose the information referred to in subparagraph (A). The preceding sentence does not apply if—

"(i)(I) the card issuer does not impose a fee described in subsection (c)(1)(A)(ii), or

"(II) in connection with telephone solicitations, the card issuer does not impose such a fee unless the consumer signifies acceptance by using the card;

"(ii) the card issuer discloses clearly and conspicuously the information referred to in subsection (c)(1)(A) within 30 days after the consumer requests the card, but in no event later than with delivery of the card; and

"(iii) the card issuer discloses clearly and conspicuously that the consumer is not obligated to accept the card or account and the consumer will not be obligated to pay any of the fees or charges disclosed unless the consumer elects to accept the card or account by using the card.

"(2) OTHER MATERIALS.—

"(A) IN GENERAL.—An application to open a credit card account for any person under an open end consumer credit plan, or a solicitation to open such an account without requiring an application, that is made available to the public or contained in catalogs, magazines, or other publications, shall either contain the disclosures required by paragraph (1)(A), or disclose clearly and conspicuously that—

"(i) there are costs associated with the use of credit cards; and

"(ii) the applicant may contact the creditor to request disclosure of the information described in paragraph (1)(A) by calling a toll free number or by writing to an address, specified in the application.

Upon receipt of a request for any of the information described in paragraph (1)(A), the card issuer or its agent shall disclose all of the information described in paragraph (1)(A).

"(B) EFFECT OF PARTIAL DISCLOSURE.—Where an application or solicitation described in subparagraph (A) discloses any one or more of the items described in paragraph (1)(A), it shall disclose all such items in accordance with paragraph (1)(A).

"(C) DATING MATERIALS.—An application or solicitation that is subject to this paragraph and that discloses the items described in paragraph (1)(A) shall disclose such items clearly and conspicuously and in a manner that is accurate on the date of printing, and shall disclose clearly and conspicuously the date that the information is accurate and that the information disclosed is subject to change.

"(3) CHARGE CARD APPLICATIONS AND SOLICITATIONS.—

"(A) IN GENERAL.—Any application or solicitation for a charge card shall disclose clearly and conspicuously the following information, to the extent applicable:

"(i) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of a charge card and any transaction charge imposed in connection with use of the card to purchase goods or services.

"(ii) A statement that charges incurred by use of the charge card are due and payable upon receipt of a periodic statement rendered for such charge card account.

"(B) ISSUERS OF CHARGE CARDS WHICH PROVIDE ACCESS TO OPEN END CONSUMER CREDIT PLANS.—If a charge card permits the card holder to receive an extension of credit under an open end consumer credit plan, which is not maintained by the charge card issuer, the charge card issuer may provide the information described in subparagraph (A) in lieu of the information required to be provided under paragraph (1) or (2) with respect to any credit extended under such plan, if the charge card issuer discloses clearly and conspicuously to the consumer in the application or solicitation that—

"(i) the charge card issuer will make an independent decision as to whether to issue the card,

"(ii) the charge card may arrive before the decision is made with respect to an extension of credit under an open end consumer credit plan, and

"(iii) approval by the charge card issuer does not constitute approval by the issuer of the extension of credit.

The information required to be disclosed under paragraph (1)(A) shall be provided to the charge card holder by the creditor which maintains such open end consumer credit plan before the first extension of credit under such plan.

"(C) CHARGE CARD DEFINED.—For the purposes of this subsection, the term 'charge card' means a card, plate, or other single credit device that may be used from time to time to obtain credit which is not subject to a finance charge.

"(d) DISCLOSURE PRIOR TO RENEWAL.—

"(1) IN GENERAL.—A card issuer that imposes any fee described in subsection (c)(1)(A)(ii) shall transmit to a consumer at least 30 days prior to the scheduled renewal date of the consumer's credit or charge card account a clear and conspicuous disclosure of—

"(A) the date by which, the month by which, or the billing period at the close of which, the account will expire if not renewed,

"(B) the information described in subsection (c)(1)(A) that would apply if the account were renewed, and

"(C) the method by which the consumer may terminate continued credit availability under the account.

"(2) TIME FOR DISCLOSURES.—The disclosures required by this subsection may be provided prior to posting the fee to the account, or if the consumer is given a 30-day period to avoid payment of the fee or to have the fee recredited to the account in any case where the consumer does not wish to continue the availability of the credit, with the periodic billing statement first disclosing that the fee has been posted to the account.

"(3) SHORT-TERM RENEWALS.—The Board may by regulation provide for fewer disclosures than are required by paragraph (1) in

the case of an account which is renewable for a period of less than 6 months.".

SEC. 3. CIVIL LIABILITY.

Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640) is amended—

(1) by striking out "in section 127" in the third sentence and inserting in lieu thereof "in subsections (a) and (b) of section 127"; and

(2) by inserting after the third sentence the following: "In connection with the disclosures referred to in section 127(c) or section 127(d), a card issuer shall have a liability under this section only to a cardholder who pays a fee described in section 127(c)(1)(A)(ii) or who uses the credit card.".

SEC. 4. COORDINATION WITH OTHER LAWS.

Section 111 of the Truth in Lending Act (15 U.S.C. 1610) is amended—

(1) in subsection (a)(1), by striking out "Chapters 1, 2, and 3" and inserting in lieu thereof "Except as provided in subsection (e), chapters 1, 2, and 3"; and

(2) by adding at the end thereof the following new subsection:

"(e) CERTAIN CREDIT CARD APPLICATION DISCLOSURE PROVISIONS.—The provisions of sections 127(c) and 127(d) shall supersede any provision of the law of any State relating to the disclosure of information in any credit card or charge card application or solicitation which is subject to the requirements of section 127(c) or any renewal notice under section 127(d), except that—

"(1) nothing in this subsection affects any State law enacted or used to enforce the requirements of section 127(c) or section 127(d), and

"(2) any item of information with respect to credit or charge card solicitations, applications, and renewals that—

"(A) is or would be required to be disclosed by a State law which was in effect, or by a bill which one house of a State legislature had passed, as of December 2, 1987, and

"(B) is in addition to the disclosures required by sections 127(c) and 127(d),

shall be required to be disclosed on and after the date on which such State adopts a law reenacting such earlier State law, or on which such bill becomes law. Such date shall be after December 2, 1987, but not later than December 2, 1989.".

SEC. 5. REPORTING TO THE BOARD OF GOVERNORS.

Section 136 of the Truth in Lending Act (15 U.S.C. 1646) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

"(b) The issuer of any credit card shall submit semiannually to the Board the information required to be disclosed by section 127(c). The Board shall make such information available to the public upon request, and shall report such information annually to Congress."; and

(3) by striking out "subsection (a)" in subsection (c), as redesignated, and inserting in lieu thereof "subsections (a) and (b)".

SEC. 6. INSURANCE PROVIDED IN CONNECTION WITH CERTAIN OPEN END CREDIT CARD PLANS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end thereof the following:

"(e) INSURANCE IN CONNECTION WITH CERTAIN OPEN END CREDIT CARD PLANS.—

"(1) CHANGE IN INSURANCE COVERAGE.—(A) Whenever a card issuer that offers any guarantee or insurance for repayment of all or part of the outstanding balance of an open end credit card plan proposes to change the person providing that guarantee or insurance, the card issuer shall send each insured consumer written notice of the proposed change not less than 30 days prior to the change.

"(B) Whenever a card issuer proposes to make a change described in subparagraph (A), the card issuer shall send to the insurance commissioner of the appropriate State written notice of the proposed change not less than 30 days prior to such change.

"(2) SPECIAL RULE FOR ADVERSE CHANGES.—In any case where a proposed change described in paragraph (1) will result in new guarantee or insurance coverage which is not at least equivalent in cost, amount, terms, and conditions as the current guarantee or insurance, the cardholder may continue the guarantee or insurance only if the cardholder affirmatively files a written election to continue to purchase such guarantee or insurance.

"(3) STATE NOTIFICATION REQUIREMENT.—If the law of the appropriate State requires notification and reenrollment of the consumer, the card issuer shall comply with such State notification and reenrollment requirement rather than the requirements under paragraphs (1) and (2).

"(4) 'APPROPRIATE STATE' DEFINED.—For purposes of this subsection, the 'appropriate State' is the State in which the card issuer has its principal place of business, except that where a majority of the cardholders under a card issuer's open end credit plan resides in a State other than the State where the card issuer has its principal place of business, the appropriate State is that other State.".

SEC. 7. EFFECTIVE DATE.

(a) SECTION 2 REGULATIONS.—Regulations required to be prescribed by the Board under the amendment made by section 2 of this Act shall—

(1) take effect not later than the end of the 120-day period beginning on the date of enactment of this Act; and

(2) apply only with respect to applications, solicitations, and other material distributed after the end of the 120-day period beginning after the end of the period referred to in paragraph (1).

Any creditor may, at its option, comply with the amendment made by section 2 of this Act after the publication of final regulations and prior to the effective date of such regulations, in which case the amendment made by section 2 of this Act shall be fully applicable to such creditor.

(b) SECTION 6.—The amendment made by section 6 of this Act shall take effect on July 1, 1988.

SEC. 8. REPORTS TO THE CONGRESS.

Not later than 1 year after the regulations prescribed under section 6 of this Act become effective and annually thereafter, the Board of Governors of the Federal Reserve System shall transmit to the Congress a report containing—

(1) an assessment by the Board of the profitability of credit card operations of depository institutions, including an analysis of any impact of the amendments made by this Act on such profitability;

(2) a description of the methods of balance calculation being used by card issuers in connection with open end credit plans and particularly on any changes in the types of balance calculation methods being used by card issuers; and

(3) the impact of the amendments made by this Act on the availability of credit (including credit cards) to low income consumers.

Mr. BYRD. Mr. President, I move to reconsider the vote for which the bill was passed.

Mr. ARMSTRONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GAS ROYALTY ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3479.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 3479) entitled "An Act to provide for adjustments of royalty payments under certain Federal onshore and Indian oil and gas leases, and for other purposes", with the following amendment:

In lieu of the matter inserted by the amendment of the Senate to the text of the bill, insert:

(a) That this Act may be referred to as the "Notice to Lessees No. 5 Gas Royalty Act of 1987".

(b) FINDINGS.—The Congress finds that—

(1) effective on June 1, 1977, in Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases Numbered 5 (NTL–5) (42 Fed. Reg. 22,610), the Secretary of the Interior established the method of calculating the amount of royalties to be paid to the United States on natural gas production from Federal and Indian oil and gas leases.

(2) NTL–5 was a duly promulgated rule of the Department of the Interior within the meaning of the Administrative Procedure Act;

(3) under the NTL–5 method of calculation, the base value for royalty purposes of certain gas production was the greater of the price received under the gas sales contract or the highest applicable ceiling rate then established by the Federal Power Commission. The applicable ceiling rate was subsequently interpreted to be the maximum lawful price established under the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et seq.);

(4) although between 1982 and 1986 gas prices in many areas declined below the maximum lawful prices established under the Natural Gas Policy Act of 1978, the continued application of NTL–5 required some royalties to be paid on the basis of a ceiling rate higher than the market value for the gas;

(5) effective August 1, 1986, the Secretary of the Interior modified the method of calculating certain future Federal and Indian gas royalty payments. This modification, published in the Federal Register on July 25, 1986 (51 Fed. Reg. 26,759) was a duly promulgated regulation of the Department of the Interior. The modification left the original provisions of NTL–5 in effect for gas sales prior to August 1, 1986, since the Secretary found that retroactive modification of NTL–5 would have resulted in inconsistent royalty enforcement and would have undermined the policy of strict compliance with lawful Federal royalty valuation rules and the need to ensure that Federal lessees and other payors rely upon rules until such

time as the rules are lawfully changed (51 Fed. Reg. 26,759);

(6) in January 1987, the Department of the Interior proposed to reconsider its position and proposed to modify NTL-5 retroactively;

(7) there is a trust responsibility of the United States for the administration of Indian oil and gas resources as reaffirmed in sections 2 (a)(4) and (b)(4) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 (a)(4) and (b)(4)); and

(8) the failure to adjust the method of calculating royalty payments resulting from changes in the gas market created various problems in valuation, produced inequitable situations for many lessees and payors whose gas market price was well below the NGPA ceiling prices, and created uncertainty associated with the collection of royalty revenues. Uniform application of NGPA ceiling prices was inequitable given market conditions during this period. For these reasons, it is necessary and appropriate for the Congress to provide for certain adjustments through legislation.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(a) SECRETARY.—The term "Secretary" means the Secretary of the Interior or his designee.

(b) NTL-5.—The term "NTL-5" means the Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases published May 4, 1977 (42 Fed. Reg. 22,610).

(c) OTHER TERMS.—All other terms carry the same meanings as provided in section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. Sec. 1702).

SEC. 3. VALUATION FOR ROYALTY PURPOSES OF CERTAIN GAS PRODUCTION FROM FEDERAL AND INDIAN LANDS.

(a) APPLICABILITY.—The provisions of this section shall be used in determining the value for royalty purposes of any gas production from Federal onshore or Indian oil and gas leases during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2, section II.A.2 or section VI of NTL-5.

(b) ROYALTY CALCULATION FOR CERTAIN FEDERAL ONSHORE AND INDIAN OIL AND GAS LEASES.—If the gas referred to in subsection (a) of this section was produced from a Federal onshore or Indian lease, the value of production, for the purpose of computing royalty, shall be the reasonable value of the product as determined consistent with the lease terms and the regulations codified at part 206 of title 30, Code of Federal Regulations, in effect at the time of production. In establishing the reasonable value, due consideration shall be given to the highest price paid for a part or for a majority of production of like quality in the same field, to the price received by the lessee, to posted prices, and to other relevant matters. Under no circumstances shall the value of production of any of said substances for the purposes of computing royalty be deemed to be less than the gross proceeds accruing to the lessee from the sale thereof or less than the value computed on such reasonable unit value as shall have been determined by the Secretary. In the absence of good reason to the contrary, value computed on the basis of the highest price per thousand cubic feet or gallon paid or offered at the time of production in a fair and open market for the major portion of like-quality gas, or other products produced and sold from the field or area where the leased lands are situated will be considered to be a reasonable value. In addition, if the gas was produced from an Indian lease, the reasonable value shall be determined consistent with the Secretary's trust responsibility, the lease terms, and the regulations codified at section 211.13 or section 212.16 of title 25, Code of Federal Regulations, as applicable, in effect at the time of production.

(c) WRITTEN DOCUMENTATION.—In order for the Secretary to make royalty value determinations under this section, there must be written documentation which (1) has been determined to be adequate by the Secretary, (2) was in existence at or near the time of sale, (3) shows the actual price received, and (4) may include, but is not limited to, a gas sales contract, purchase statement, receipt, minerals management service, oil and gas records, or other written documentation.

(d) EXCEPTION.—This section shall not apply to any gas for which, in the Secretary's judgment, the lessee or royalty payor received less than the highest applicable price under the Natural Gas Policy Act due to a failure by the lessee or payor to collect amounts which the purchaser would have been required to pay under a gas sales contract providing for that price and not as a result of market conditions or considerations.

SEC. 4. PROCEDURES.

(a) CASE-BY-CASE AUDIT FOR CERTAIN FEDERAL ONSHORE OIL AND GAS LEASES.—The Secretary shall publish in the Federal Register and send to each lessee or royalty payor of record for any Federal onshore oil and gas lease a notice of enactment of this Act informing such lessees and royalty payors of the provisions of this Act. Such notice shall include a description of the process whereby underpayments, if any, by lessees will be sought and the terms and conditions to lessees for obtaining refunds, if any, based on royalty calculations under this Act. Any lessee that has reason to believe that it is entitled to a refund under this Act shall provide written notice to the Secretary in a form prescribed by the Secretary specifying the Federal onshore oil and gas lease or leases involved. The Secretary, and any State in accordance with delegations of authority under section 205 or cooperative agreements under section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C 1732, 1735), shall conduct a case-by-case audit of royalties for such leases and any other Federal onshore lease which is examined under existing law to determine the amount of royalties due and payable under this Act and other applicable law and the amount of any refund due a lessee. In addition to those leases for which the lessee has provided written notice to the Secretary pursuant to this subsection, priority shall be given to auditing those leases for which there is the greatest likelihood of underpayment of royalties.

(b) CASE-BY-CASE AUDIT ON INDIAN LEASES.—The Secretary shall publish in the Federal Register and send to each lessee or royalty payor of record for any Indian oil and gas lease a notice of enactment of this Act informing such lessees and royalty payors of the provisions of this Act. Such notice shall include a description of the process whereby underpayments, if any, by lessees will be sought and the terms and conditions for lessees to obtain refunds, if any, based on royalty calculations under this Act. Any lessee that has reason to believe that it is entitled to a refund under this Act shall provide written notice to the Secretary in a form prescribed by the Secretary specifying the Indian oil and gas lease or leases involved. The Secretary, and any Tribe in accordance with cooperative agreements under section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732), shall conduct a case-by-case audit of royalties for such leases and other Indian oil and gas leases on which gas was produced at any time during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2, section II.A.2, or section VI of NTL-5 to determine the amount of royalties due and payable under this Act and other applicable law and the amount of any refund due a lessee. In addition to those leases for which the lessee has provided written notice to the Secretary pursuant to this subsection, priority shall be given to auditing those leases for which there is the greatest likelihood of underpayment of royalties.

(c) The Secretary shall demand payment of any underpayment which is determined to be owed to the Federal or Indian lessor as a result of the case-by-case review required in this section.

(d) MMS NOTICE.—The Secretary shall provide a notice under this section to each lessee under a Federal onshore or Indian oil and gas lease on which an audit was performed in accordance with this section. The notice shall contain each of the following:

(1) A statement of the amount of the royalty payments made in accordance with the provisions of NTL-5.

(2) A statement of additional royalty payment, if any, to be made by a lessee or the amount of refund, if any, to which the lessee is entitled under this Act and a description of the means by which such refund will be provided.

(e) REPORT TO INDIAN TRIBES.—The Secretary shall provide a report to each Indian Tribe holding an Indian oil and gas lease on which gas was produced at any time during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A. 2, section II.A.2, or section VI of NTL-5. The report to each Tribe shall contain information for each such lease held by the tribe stating the difference between royalties computed in accordance with NTL-5 and royalties computed in accordance with subsection 3(b) of this Act.

SEC. 5. REFUND OF ROYALTIES PREVIOUSLY PAID.

(a) REFUND FOR FEDERAL ONSHORE OIL AND GAS LEASES.—

(1) If the Secretary or a court of competent jurisdiction determines that a lessee or royalty payor on a Federal onshore lease has paid, prior to October 1, 1987, more than the value determined under subsection 3(b) of this Act for any gas within the coverage of subsection 3(a) of this Act, the Secretary shall refund the Federal share of such overpayment from moneys received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 191), which would otherwise be deposited to miscellaneous receipts in the Treasury, in accordance with procedures established by the Secretary.

(2) The portion of any excess amount, as determined under paragraph (1) previously paid to a State under applicable law from royalties paid under a Federal onshore oil and gas lease or group of leases subject to a unit agreement shall be recouped from the next subsequent disbursements to that State. If the total amount of such recoupments for any month exceeds ten percentum of the total disbursement to that State for that month from mineral lease revenues, the Secretary shall recoup amounts in

excess of that level from disbursements to the State in the next month subject to the same limitation. The Secretary shall pay any difference between the amounts required to be paid to a State as a result of this paragraph and the amounts available to be paid to the State from current royalty revenues from moneys received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 191), which would otherwise be deposited to miscellaneous receipts.

(b) REFUND FOR INDIAN LEASES.—If the Secretary or a court of competent jurisdiction determines that a lessee or royalty payor has paid, prior to October 1, 1987, more than the value determined under subsection 3(b) of this Act for any gas within the coverage of subsection 3(a) of this Act and produced from an Indian lease, the Secretary shall refund the amount paid in excess of the value determined under subsection 3(b) from monies received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191) which would otherwise be deposited to miscellaneous receipts in the Treasury. The Secretary shall not recoup any portion of any such refund from the Indian lessor.

(c) The total amount of refunds made under this section shall not exceed two million dollars ($2,000,000).

SEC. 6. RECORD KEEPING REQUIREMENTS.

Notwithstanding the requirements of section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. Sec. 1713), and any regulations promulgated pursuant thereto, lessees and other payors are required to maintain records related to the value of gas production to which this Act applies for the period January 1, 1982 through July 31, 1986, until the Secretary gives notice that maintenance of such records no longer is required.

SEC. 7. SAVINGS PROVISION.

Nothing in this Act shall be construed to affect the right of any Indian, Indian Tribe, or lessee to bring any action in a court of competent jurisdiction.

Resolved, That the House disagree to the amendment of the Senate to the title.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. MELCHER. Mr. President, I rise in strong support of H.R. 3479 which is intended to provide clarification regarding the royalty payments owed under Federal onshore and Indian oil and gas leases for certain gas production. I am pleased that agreement has been reached with the House of Representatives on legislation that will resolve the inequities which have resulted from the uniform application of NTL-5 to determine value for Federal onshore and Indian oil and gas leases during the period from January 1, 1982 to July 31, 1986. I note that enactment of this legislation will supersede language in the continuing resolution for fiscal year 1988 which precludes the Department of the Interior from implementing a modification to NTL-5 until such time as legislation is enacted addressing the issue.

As the sponsor of S. 1814, the Senate version of the NTL-5 Gas Royalty Act of 1987, I would like to clarify the effect of one provision of the measure we are approving today. The legislation provides, as do the regulations in title 30, Code of Federal Regulations, that absent good reason to the contrary, the highest paid for a major portion of the production from a field or area is a reasonable value. It is my understanding that during the period covered by this act, gas prices were falling and many sellers were forced to accept lower prices, often the result of so-called market-out clauses. Am I correct that this market circumstances is "good reason to the contrary" such that under this legislation, MMS could, and in most cases should, accept as royalty value contract prices which were dictated by the market and which would be lower than the highest price paid for a major portion of production?

Mr. JOHNSTON. That is my understanding.

Mr. McCLURE. I would also answer that question affirmatively.

Mr. MELCHER. I note that the legislation restates provisions contained in part 206 of title 30 with minor modification. The legislation eliminates the word "estimated" from the phrase "estimated reasonable value." In my view, this change is insignificant and does nothing to change the standards under those regulations. Is this correct?

Mr. McCLURE. That is correct.

Mr. JOHNSTON. I agree.

Mr. MELCHER. So it is correct that the legislation does not create any new standard departing from that imposed under those regulations?

Mr. JOHNSTON. That is correct.

Mr. McCLURE. That is my understanding as well.

Mr. NICKLES. As an original cosponsor of the Senate version of the NTL-5 Gas Royalty Act of 1987, S. 1814, I would like to ask the chairman of the Committee on Energy and Natural Resources to discuss the reasons for accepting the language in section 7 of H.R. 3479. This provision was not included in S. 1814.

Mr. JOHNSTON. I am pleased to respond to the Senator from Oklahoma. The Senate rejected section 8, the so-called savings clause, contained in the original House bill because it was overly broad and ambiguous. In rejecting section 8, the Senate emphasized its purpose in enacting this legislation, which is to eliminate the uniform application of the highest applicable price under the Natural Gas Policy Act of 1978 as the basis for determining the value of certain gas production for royalty purposes during the period January 1, 1982 through July 31, 1986. Given market conditions during that period, uniform application was simply unreasonable and would have created inequitable situations for lessees. I believe that the new section 7 savings provision does not in any way imply that use of the NGPA ceiling prices was reasonable during the January 1, 1982 through July 31, 1986 period, nor does the provision enhance the likelihood of success in litigation to recover such amounts.

Mr. McCLURE. I agree. Indeed, given this legislation, it would in all likelihood be difficult for Indian lessors to prevail in a case brought to recover royalties based on the NGPA ceiling prices from the lessees as noted in the report of the Committee on Energy and Natural Resources. NTL-5, while not unreasonable when contract prices were identical to the highest applicable prices under the Natural Gas Policy Act, proved to be unreasonable and unfair as soon as market prices started dropping below those NGPA price ceilings. The purpose of this legislation is to ensure that lessees of Federal onshore and Indian oil and gas leases pay royalties based on the reasonable value of the product as currently provided for by 30 CFR part 206, including section 206.103, and as would be calculated under those regulations in the absence of NTL-5. These lessees should not be required to pay royalties based on NGPA prices for the period covered by the bill unless those prices would be the reasonable values calculated under those regulations. The committee preferred not to include any savings clause, and the bill as the Senate originally passed it contained none. Neither the committee nor the full Senate would agree to a savings clause with the meaning of the one contained in the House bill as explained in the House Committee report, inasmuch as such a clause would be counterproductive to the purposes of the legislation and create serious ambiguity. The saving clause which has been agreed to merely states that this legislation is not meant to affect the right of any Indian or Indian tribe, or any Federal or Indian lessee, to bring any action in a court of competent jurisdiction.

Mr. JOHNSTON. I concur with the views of Senator McCLURE.

Mr. WIRTH. I certainly agree with the distinguished chairman and ranking member of the Energy and Natural Resources Committee concerning the importance of rejecting the ambiguous language in section 8 of the original House bill. However, I urge the Senate to accept section 7 in this most recent version of H.R. 3479. I believe that section 7 is needed to make certain that the passage of this legislation will not affect any ongoing or future litigation by Indian lessors with respect to their basic royalty rights pursuant to underlying Department of the Interior regulations in 25 and 30 CFR. We must make certain that the rejection by the Senate of the section 8 savings clause in the original House-passed bill is not construed to imply that the Congress

intends to affect litigation by the Indian tribes under part 206 of title 30 and sections 211.13 and 212.16 of title 25 of the Code of Federal Regulations.

Mr. McCLURE. I have no disagreement with the Senator's remarks.

Mr. NICKLES. I thank my colleagues for this clarification. With that understanding of the limited nature of this new savings clause, I will not oppose inclusion of section 7.

Mr. McCLURE. I want to make it absolutely clear that this statute does absolutely nothing to change or alter in any manner the process currently used by the Secretary to determine, or estimate if you prefer, reasonable value. The language in section 3(b) is clear and unambiguous and states that the value shall be determined consistent with the lease terms and the regulations covered under part 206 of title 30 of the Code of Federal Regulations. The language does not, and I want to emphasize this, does not say "except for 206.103." There may be those who would prefer to ignore particular regulations or pretend they do not exist, but the statute is clear. If we had intended to avoid 206.103, we would have said so. We did not and any suggestion to the contrary is just so much wishful thinking.

I should also note that section 3 of the bill in fact states much of 206.103 with the technical deletion of the word "estimated." There may be those who would seek to read some extraordinary significance into the deletion, but let me assure everyone that the deletion makes not one iota of difference. The reason is that the Director continues to make the determination. His determination, and his alone, is in fact his estimate. The reasonable value which he calculates is still the estimated reasonable value. I'm afraid English is still English—however much others would prefer it not to be—and the language and intent of the act is clear and unambiguous.

Mr. JOHNSTON. I agree wholeheartedly with the banking member's remarks. The language of section 3(b) of the legislation specifically references the regulations at part 206 of title 30, indicating that reasonable value is intended to be determined under the standards set forth in those regulations, including 30 CFR 206.103. The omission of the word "estimated" is insignificant and does nothing to change the standard. Implying that there is a new standard as a result of this omission is drawing a distinction without a difference.

Furthermore, the bill does nothing to "tighten" the language of 30 CFR 206.103 referring to methods of valuation. Simply stated, the legislation makes one insignificant change from the language in the regulation by omitting the word "estimated" and changes one verb tense in the regulatory language. Our clear intent, as is evidenced by the plain language of the legislation, is that no valuation standard different from that in 30 CFR 206.103 is created by the legislation.

Mr. NICKLES. Mr. President, I support the changes made by the House to the Senate passed version of H.R. 3479. I am an original cosponsor of S. 1814, the NTL-5 Gas Royalty Act of 1987, sponsored by the distinguished chairman of the Subcommittee on Mineral Resources Development and Production, Senator MELCHER. I have been a strong advocate of the need for this legislation, and am pleased that we are on the verge of seeing it enacted.

This legislation will accomplish two very important goals for gas producers on Federal onshore and Indian oil and gas leases; certainly and fairness. Lessees will finally know that the Department of the Interior, the States and the Indians and Indian tribes will not be taking enforcement actions against the lessees pursuant to the Department's ill-advised Notice to Lessees-5 which was originally published in 1977. There has been uncertainty about the legal force of NTL-5 since the Department started notifying lessees that the Department was not going to enforce the valuation methodology prescribed by that notice. NTL-5 called for lessees to pay royalties based on Natural Gas Policy Act natural gas ceiling prices, which by 1982 became no longer relevant measures of what lessees were actually receiving for their gas. This legislation will remove that uncertainty.

This measure also meets my goal of achieving fairness in reaching a solution to the problems caused by NTL-5. The Department is to faulted for selecting a short-hand method of determining natural gas value. The NGPA ceiling prices were imposed as part of an ill-advised price regulation scheme that did not even pretend to bear any relation to the economic value of the gas. No reasonable person could argue that a law that contained over 26 different price categories for the same commodity—natural gas—could possibly be an appropriate measure of the value of that commodity. Obviously, the prices received by lessees for their natural gas were the same as the NGPA ceiling prices so long as there was a tight market for natural gas. This tight market, I might add, was the result of congressional insistence in placing ceiling prices on interstate—and under the NGPA, intrastate—natural gas.

However, when the supply of natural gas began to match the demand in 1982, consumers were no longer willing to pay the NGPA ceiling price for the highest of those 26 or so categories of natural gas. Thus, beginning in 1982, the lessees producing high ceiling price natural gas not only began receiving lower prices for their gas—causing financial hardship in trying to pay off their drilling loans—but also were slapped with a massive de facto Federal royalty increase. This non-legislated royalty increase occurred because the NTL-5 guidelines told auditors to charge the NGPA ceiling price even if the lessees were actually receiving only a fraction of that amount for their gas.

This legislation will end this unfairness by declaring the NTL-5 directive to use the NGPA ceiling price to be unenforceable by the Federal Government, the States and the Indians and Indian tribes during the period January 1, 1982, through July 31, 1986.

I am also pleased that this legislation solves this NTL-5's unfairness to lessees in a manner that does not impose a hardship on the States or the Indian tribes. NTL-5 was a Federal mistake, and we are not asking the States or Indian tribes to pay for that mistake. This bill provides that the Federal Government will reimburse the States and Indians and Indian tribes for any refunds that they will have to make to lessees who actually made royalty payments above what they otherwise should have paid under the normal Federal royalty regulations.

It is my understanding that most producers, especially the large producers, withheld payments on the disputed valution—that is the difference between the money they received for the gas and the arbitrary NGPA ceiling price. The Department of the Interior has estimated the total refunds that will be owed to lessees—mostly the smaller independents—will only be about $500,000. We have provided for a cap of $2 million to protect the U.S. Treasury in the event the Department's estimates are too low.

As a result of discussions with my colleagues, staff and representatives of the Department of the Interior, I am advised that the change made by the House to the Senate passed version of H.R. 4379 in deleting the word "estimated" from section 3(b) discussion of how royalties will be assessed by the Secretary of the Interior is of insignificant legal affect. It is with this understanding that I reluctantly support the House change, but I must make it clear that I certainly would object to this needless and pointless deletion if there were any chance that dropping the word "estimated" were to change the manner in which the Federal royalties are to be calculated under part 206 of title 30 and sections 211.13 and 212.16 of title 25. I will not object, because of the assurances I have received from my colleagues that this minor word change will not change the manner in which the Secretary of the Interior calculates royalties under section 3(b) as passed by the Senate.

91-059 O-89-31 (Pt. 26)

I am proud to be an original cosponsor of this legislation and compliment Chairman MELCHER for his leadership in moving this legislation, and for his cooperation with the minority during this process. This is truly a bipartisan effort that deserves the support of the full Senate.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the Senate concurred in the House amendment.

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

The motion to lay on the table was agreed to.

OSCAR GARCIA RIVERA POST OFFICE BUILDING

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 1948.

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

Mr. BYRD. I ask unanimous consent that the Senate proceed to its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1948), to designated the United States Post Office Building located at 153 East 110th Street in New York, New York, as the "Oscar Garcia Rivera Post Office Building".

There being no objection, the Senate proceeded to the immediate consideration of the bill.

AMENDMENT NO. 1377

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk on behalf of Senator PRYOR and Senator STEVENS, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG], for Mr. PRYOR (for himself and Mr. STEVENS) proposes an amendment numbered 1377.

Mr. ARMSTRONG. 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:

At the appropriate place in the bill insert the following:

SEC. . SERVICE CREDIT COMPUTATION.

Subsection (b) of section 8332 of title 5, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (15);

(B) by striking out the period at the end of paragraph (16) and inserting in lieu thereof"; and"; and

(C) by inserting after paragraph (16) the following new paragraph:

"(17) in the case of any individual who first becomes an employee of the Department of Transportation, the Interstate Commerce Commission, the National Mediation Board, the National Transportation Safety Board, the Railroad Retirement Board, the GAO, or an employee as defined in 5 U.S.C. 2107, on or before December 31, 1983, service performed on or after December 31, 1935, as an employee subject to the provisions of the Railroad Retirement Act of 1935, the Railroad Retirement Act of 1937, or the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), if such employee—

"(A) acquires 5 years or more of creditable civilian service (other than service performed on or after December 31, 1935, as an employee subject to the provisions of such Railroad Retirement Acts); and

"(B) makes a deposit to the Fund in an amount equal to the excess of the amount which would be required under section 8334(c) of this title, but for section 8334(g)(7) of this title, over the total amount contributed by such employee under such Railroad Retirement Acts.".

SEC. . DEPOSITS.

Section 8334(g) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(7) service creditable under paragraph (17) of section 8332(b) of this title, except to the extent provided in subparagraph (B) of such paragraph.".

SEC. . INELIGIBILITY FOR ANNUITY UNDER RAILROAD RETIREMENT ACT OF 1974.

Section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a) is amended by adding at the end the following new subsection:

"(i) An individual who is entitled to an annuity under subchapter III of chapter 83 of title 5, United States Code, is not eligible to receive an annuity under this section on the basis of the same service.".

Mr. BYRD. Mr. President, I ask unanimous consent that I may be added as a cosponsor.

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

Is there debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Arkansas [Mr. PRYOR].

The amendment (No. 1377) was agreed to.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1378

Mr. BYRD. Mr. President, on behalf of Mr. SASSER, 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 West Virginia (Mr. BYRD), for Mr. SASSER, proposes an amendment numbered 1378.

Mr. BYRD. 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:

At an appropriate place in the bill, H.R. 1948, insert the following language:

SEC. . WEATHER SERVICE EMPLOYEES.—Title 5, section 2109(1) of the United States Code which defines "air traffic controllers" is amended to read as follows: "[A]ir traffic controller" or "controller" means a civilian employee of the Department of Commerce or Department of Transportation or Department of Defense who, in an air traffic control facility or flight service station facility or National Weather Service or National Environmental Satellite Data and Information Service Facility—

(A) is actively engaged—

(i) in the separation and control of air traffic;

(ii) in providing preflight, inflight, or airport advisory service to aircraft operators; or

(iii) in providing meteorological observations and forecasting, meteorological data gathering and processing which is available to air traffic controllers or pilots; or

(B) is the immediate supervisor of any employee described in subparagraph (A).

Mr. SASSER. Mr. President, I rise to offer an amendment to H.R. 1948, which passed the House of Representatives on August 3, 1987. My amendment adds certain employees of the National Weather Service, and of the National Environmental Satellite, Data and Information Service, to the class of employees eligible for early retirement under the Federal employees' retirement system, or "FERS."

Now FERS, which was established by Public Law 99-335 and which went into effect on January 1 of this year, permits early retirement with unreduced benefits for a number of categories of Federal employees. Certain law enforcement personnel, firefighters, flight service specialists, and air traffic controllers may retire at age 50 with at least 20 years of service. The early retirement provision was created in recognition of the fact that the stresses posed by some occupations may shorten life expectancy.

What are the particular stresses confronted by NWS and NESDIS employees, which warrant their inclusion in the early retirement structure?

One is the rotating shifts requirement. Obviously, weather service facilities must have at least some personnel on duty at all times to provide weather watches and to ensure public safety. Rather than some employees working exclusively day shifts, however, and others exclusively at night, NWS instituted the rotating shift. In other words, shift assignments are constantly changing so that each employee is responsible, over time, for

equivalent amounts of day and night work. And NWS employees' exposure to such shift work continues throughout their careers, regardless of seniority. Thus, all are exposed to certain well-documented hazards associated with irregular sleep patterns. Scientific evidence demonstrates up to 10 percent reductions in lifespan due to flip-flopped light schedules, while persons who must routinely sleep fewer than 6 hours are more susceptible to heart disease and stroke.

A second factor, adversely affecting weather service and meteorological employees, is the stress of responding in timely fashion to public safety needs. In fact, the more severe the weather situation, the more acute is the need to meet deadlines swiftly and accurately if large populations are not to be endangered.

I might note in this regard that when FERS was established under Public Law 99-335, the definition of "air traffic controllers" eligible for early retirement included "flight service station facility" specialists. These employees are responsible for providing preflight, inflight, or airport weather advisory services to aircraft pilots. I would hardly question the inclusion of these persons in the early retirement provision—for aren't they subject to the very occupational stresses I have just described?

And yet, I think by oversight, employees of NWS and NESDIS, engaged in the same kind of work as flight service specialists, are omitted from the definition of eligibles. This omission appears even less justifiable when you stop to think that the information that flight service specialists are passing along was generated and written—under tight deadlines and with lives in the balance—by none other than National Weather Service and NESDIS employees. In fact, flight service specialists routinely refer the more complicated pilot briefings directly to NWS employees, who also participate alongside flight service specialists in coordinating search and rescue efforts.

My amendment would establish equitable treatment for weather service employees, to whom we all owe such a debt of gratitude for their conscientious performance of duty. It is estimated that it would currently affect no more than about 300 senior employees, although those 300 deserve our help.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Tennessee [Mr. SASSER].

The amendment (No. 1378) was agreed to.

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

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 1948), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

KOREAN WAR VETERANS MEMORIAL CONTRIBUTIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 1454, and that the Senate proceed to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1454) to permit certain private contributions for construction of the Korean War Veterans Memorial to be invested temporarily in Government securities until such contributed amounts are required for disbursement for the memorial.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

Mr. GLENN. Mr. President, I rise to express my support for H.R. 1454 which would authorize the Secretary of the Treasury to invest private funds contributed to the American Battle Monuments Commission [ABMC] for the construction of the Korea War Veterans Memorial in public debt securities. In July Senator ARMSTRONG and I introduced the Senate companion measure, S. 1525, and in October the House approved H.R. 1454 without dissent. I very much appreciate the efforts of my colleagues on the Public Lands Subcommittee and the Energy and Natural Resources Committee to bring this measure up for Senate consideration prior to the end of this session.

As my colleagues recall, last year Congress enacted legislation to authorize the construction of a memorial to veterans of the Korean war. The memorial project is to be funded primarily by private contributions and the American Battle Monuments Commission was given responsibility for the project.

H.R. 1454 and S. 1525 seek to make minor modifications in the law enacted last year. Primarily, the bills would permit the American Battle Monuments Commission to earn interest on the contributed funds, until such time as they are needed for the memorial project, by investing them in interest-bearing obligations of the United States or an obligation guaranteed as to principal and interest by the United States. To date the ABMC has received $1.547 million in contributions toward the Korean War Memorial and they estimate that, absent the authority contained in H.R. 1454 and S. 1525, they are currently forgoing $10,000 per month in interest.

Senator ARMSTRONG and I, and all who share our interest in seeing a Korean War Memorial become a reality, appreciate the efforts of every Senator who has cooperated to expedite consideration of this measure.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 1454) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

REMOVAL OF INJUNCTION OF SECRECY—MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

Mr. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Montreal protocol on substances that deplete the ozone layer—Treaty Document No. 100-10—which was transmitted to the Senate today by the President of the United States.

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The President's message is as follows:

TO THE SENATE OF THE UNITED STATES:

I transmit herewith, for the advice and consent of the Senate to ratification, the Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal on September 16, 1987. The report of the Department of State is also enclosed for the information of the Senate.

The Montreal Protocol provides for internationally coordinated control of ozone-depleting substances in order to protect public health and the environment from potential adverse effects of depletion of stratospheric ozone. The

Protocol was negotiated under the auspices of the United Nations Environmental Program, pursuant to the Vienna Convention for the Protection of the Ozone Layer, which was ratified by the United States in August 1986.

In this historic agreement, the international community undertakes cooperative measures to protect a vital global resource. The United States played a leading role in the negotiation of the Protocol. United States ratification is necessary for entry into force and effective implementation of the Protocol. Early ratification by the United States will encourage similar aciton by other nations whose participation is also essential.

I recommend that the Senate give early and favorable consideration to the Protocol and give its advice and consent to ratification.

RONALD REAGAN.

THE WHITE HOUSE, December 21, 1987.

ACTION WITH RESPECT TO CERTAIN BILLS ON CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate's request for a conference with respect to S. 864, S. 865, and S. 866, and the listing of S. 1174 as a bill in conference, no longer be printed as part of the Senate's daily calendar.

This should result in a significant saving to the taxpayers, by virtue of the fact that those several pages of the Calendar of Business will not continue to have to be printed.

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

COMPUTER SECURITY ACT OF 1987

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 145, the Computer Security Act of 1987, which is being held at the desk.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 145) to provide for a computer standards program within the National Bureau of Standards, to provide for Government-wide computer security, and to provide for the training in security matters of persons who are involved in the management, operation, and use of Federal computer systems, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. CHILES. Mr. President, I am pleased to announce that the Senate will soon move to adopt and pass by unanimous consent H.R. 145, the Computer Security Act of 1987.

I want to comment on the legislation before we do.

The bill comes to us from the House of Representatives. During this Congress and last, the House Committees on Government Operations and Science and Technology held hearings and deliberated upon this legislation—H.R. Report 100-153, part 1 and 2. With the support of the administration the full House passed this legislation by voice vote on June 22 of this year.

Let me compliment Congressman GLICKMAN, the sponsor of this legislation and my friend Chairman BROOKS for their leadership in bringing this legislation about.

In considering this legislation here in the Senate, several Senators representing points of view from the Governmental Affairs, Commerce, Judiciary, and Intelligence Committees engaged the administration to bring together several interests in the executive branch in order to explain the consensus that exists within the executive on this legislation.

As a result of participating in that process, Mr. President, I want to make the following comments on the bill.

The bill we have before us today, the Computer Security Act of 1987, will move us a long way toward providing much needed protection for the vast amount of data which the American people entrust to the computer systems of the Federal Government. We all know that in this computer age all of society, but especially the Federal Government, relies on computers to handle information of extraordinary importance—information which must be protected from unauthorized access, manipulation, or destruction.

The protection of information stored in computers or transmitted among computer systems is vital, for example, to preserving our Nation's security, to protecting the privacy of individuals, to maintaining the integrity of financial and medical transactions, and to assuring safety in our transportation industry. Inadequate computer systems security can lead to access or manipulation by hostile intelligence services, criminal elements, foreign economic competitors, or even unbalanced individuals, The threat is too serious to be ignored. This legislation will move us a step closer to providing adequate protection.

National Security Decision Directive 145—NSDD 145—assigned significant responsibility for the Nation's computer security matters to the Department of Defense, specifically the National Security Agency, NSA. This arrangement has given rise to widespread concern about a defense or intelligence agency having responsibility over Federal computer systems that contain nondefense and nonclassified information. To allay these concerns, this bill quite properly assigns the primary responsibility for certain computer security matters to the National Bureau of Standards [NBS].

The bill requires that NBS in doing its work shall draw upon computer system technical security guidelines developed by the National Security Agency. Consequently, the Senate expects that NBS will work closely with NSA to assure that the fine work done by that organization is put to good use and that NBS, to the maximum extent feasible, assures that computer security standards that it sets are consistent and compatible with computer security guidelines developed by NSA.

This bill alters the previously existing Presidentially directed assignment of responsibilities in the computer security arena by making NBS the primary agency responsible for sensitive civil sector computer matters. It is important that it be understood that this bill is not intended in any way to alter the assignment of responsibilities in the area of telecommunications security.

Now Mr. President, let me turn to Senator GLENN, the chairman of the Governmental Affairs Committee, who will pose questions to me which I will answer.

Mr. GLENN. I recognize that up to this time there has been significant responsibility for computer and telecommunication security vested in NSA by virtue of a Presidential directive. But, I would like to point out that since 1965, under the Brooks Act, Public Law 89-306, the Commerce Department NBS has had a significant role in this area, as well.

Mr. CHILES. I thank the Senator for this clarification.

Mr. GLENN. I also recognize that in the statement of the Senator, he expressly states that this bill is not intended in any way to alter the assignment of current responsibilities in the area of telecommunications security. Is the Senator aware that under the same law—that is, under Public Law 89-306—NBS has responsibility for both computer and telecommunication standards, and that this responsibility for standards includes responsibility for security standards in these areas, as well?

Mr. CHILES. Yes, the law can be read that way. I am aware that NBS has the statutory charges to develop and implement both computer and telecommunication standards and that that charge includes responsibility for security standards in the fields of both computers and telecommunications. Keep in mind, to the extent that cryptography is involved, it is essential for purposes of national security that NSA retains its present responsibility.

Mr. GLENN. I have one final question. Is it the intention of this bill that, when developing security guidelines, NSA will make every effort to assure that those guidelines are con-

sistent with those standards issued by NBS?

Mr. CHILES. Yes, that is true. It is very important that NBS and NSA activities complement each other, rather than spark confusion through inconsistency.

Mr. HUMPHREY. I say to the chairman that our Judiciary Subcommittee on Technology and the Law has jurisdiction over the Freedom of Information Act, computer security and Government information policy, does it not?

Mr. LEAHY. That is correct.

Mr. HUMPHREY. There has been some concern that the language of section 8(2) of the pending bill could be construed to support the expansion of existing Government disclosure obligations. And I appreciate the Senator's willingness to work with me to address these concerns.

Mr. LEAHY. Concerns have also been raised that the Computer Security Act might be misconstrued to restrict existing Government disclosure obligations.

It is not the intent of this bill to expand or to restrict the Federal Government's disclosure obligations under the Freedom of Information Act with respect to any category or medium of information.

Section 8 of H.R. 145 provides that the bill shall not be construed to authorize the withholding of any agency records or information which are disclosable under the Freedom of Information Act.

At the same time, section 8 does not require the disclosure of any records, information, electronically stored data, software, data processing information, or computer programs which could be withheld under the Freedom of Information Act. Nor does the bill authorize the withholding of any records, information, electronically stored data, software, data processing information, or computer programs which would be disclosed under the Freedom of Information Act.

Mr. HUMPHREY. I thank the Senator for the clarification. Let me address a second issue that has been raised.

U.S. commercial computer technology vendors have invested heavily in research efforts to meet the unique security requirements of intelligence and defense agencies with commercial products. This spurs development of data security technology while ensuring that its costs do not fall principally on the Government. We are mindful of the potential negative impact on technology companies, and the Government as well, should this legislation give rise to two separate and distinct regimens of computer security technology—one for civilian agencies and another for intelligence and defense agencies. Will this legislation adequately safeguard the commercial interests of these companies?

Mr. LEAHY. The legislation does not mandate or even urge the establishment of two sets of data security standards or systems. Instead, it provides a framework for recognizing and reconciling the sometimes differing security needs of these distinct communities.

Mr. President, today we are considering the Computer Security Act of 1987. The House sent this bill over to the Senate on June 23. Since that time, I have been working with Senators CHILES, GLENN, HOLLINGS, and ROTH, Congressmen GLICKMAN and BROOKS, the National Security Agency, the National Bureau of Standards, and the Office of Management and Budget to assure the adoption of this important legislation.

This legislation will restore civilian control over all Federal computer systems except those excluded under the Brooks Act (10 U.S.C. 2315) and the Paperwork Reduction Act (44 U.S.C. 3502(2)). The Computer Security Act is a significant act of Congress that rejects the promulgation of information policy by executive fiat.

The central purpose of this legislation is to reject the Federal computer security plan set forth in NSDD-145. National Security Decision Directive 145 signaled a dramatic shift in the management of Government information protection from civilian authority to military authority. It has set the Government on a course that has served neither the needs of national security nor the interests of the American people. Since the issuance of that directive we have watched a Government attempt to:

Limit the availability of unclassified data in Government data bases;

Place selective limits on who may access Government data bases;

Intimidate private data base firms and public libraries to limit access to their electronic files—files which contain information published in newspapers everyday;

Impose unnecessary restrictions on the nearly 500 U.S. firms that sell information abroad.

These efforts have been widely opposed by the leaders of our information industry and those concerned with the public's right to know. The president of Mead Data Central told a Congressional hearing that "Such new restrictive and unwarranted policies under the unilateral control of the Defense Community threaten to bring this industry to a halt and would negate the significant productivity gains being made in many sectors of our economy. . . ." The Computer Security Act of 1987: Hearings before the Subcommittee on Science, Research and Technology and the Subcommittee on Transportation, Aviation and Materials of the House Committee on Science, Space and Technology, 100th Cong., 1st Sess. 112 (1987) (statement of Jack Simpson). Counsel for dialog has warned that these controls could have a devastating impact, noting that "the information industry is one of the few areas of commerce in which the United States has a favorable balance of trade." The Boston Globe, April 20, 1987, at 35.

Moreover, such efforts obstruct the free flow of information in our society. Information is the cornerstone of our democracy. As a comprehensive report from People for the American Way released last week warns, a government of secrecy produces "Decisions without Democracy."

The Computer Security Act establishes a comprehensive program for Federal computer systems security. A civilian agency—the National Bureau of Standards [NBS]—will implement that program. As H.R. 145 states in the first specific purpose outlined in section 2(b)(1), the act assigns to the National Bureau of Standards responsibility for developing standards and guidelines for Federal computer systems, including responsibility for developing standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems, drawing on the technical advice and assistance of the National Security Agency, where appropriate.

The Computer Security Act assigns to NBS responsibility for developing standards and guidelines for the security of Federal computer systems. It provides for a Computer Systems Advisory Board to identify emerging Federal computer security and privacy issues. It requires the development of security plans by the heads of all Federal agencies. And it will establish a training program for all persons involved in Federal computer systems. These are sound and comprehensive objectives for a Federal computer security policy.

There is no question that properly classified information requires specialized security measures to safeguard against unauthorized acquisition, alteration, or destruction. That is why the Computer Security Act leaves NSA's authority over computer systems containing such information unchanged.

OMB Director Jim Miller has also outlined this relationship between the agencies:

. . . it is the Administration's position that NBS, in developing Federal standards for the security of computers, shall draw upon technical security guidelines developed by NSA in so far as they are available and consistent with the requirements of civil departments and agencies to protect data processed in their systems. When developing technical security guidelines, NSA will consult with NBS to determine how its efforts can best support such requirements.

We believe this would avoid costly duplication of effort.

Computer security standards, like other computer standards, will be developed in accordance with established NBS procedures. In this regard the technical security guidelines provided by NSA to NBS will be treated as advisory and subject to appropriate NBS review . . ." H. Rep. 100-153, 100th Cong., 1st Sess., pt. 1, 41 (letter to Congressman Roe); H. Rep. 100-153, 100th Cong., 1st Sess. pt. 2, at 37 (letter to Congressman Brooks).

It is my understanding that this continues to be the administration's position and that the administration consensus described by Senator CHILES in his statement is consistent with Director Miller's letter.

I want to remind all those involved in the protection of Federal computer systems that we should not fall into the trap of characterizing computer system security as simply a matter of national security. This invites technological xenophobia, and produces misguided policies and misdirected programs. A recent report stated:

Security experts are nearly unanimous in their view that the more significant security problem is abuse of information systems by those authorized to use them, rather than by those trying to penetrate the systems from outside. Office of Technology Assessment, *Federal Government Information Technology: Management, Security and Congressional Oversight* 65 (1986).

The report of the House Committee on Science, Space, and Technology on H.R. 145 found that Federal computer fraud and abuse is most often conducted by insiders. An extensive 1984 ABA study on computer crime and another study conducted by the President's Council on Integrity and Efficiency supported this finding. A computer security policy that fails to recognize this insight will impose unnecessary costs on the Government and the private sector. It will substitute high-technology fixes for solid management practices. Ultimately, such a policy would frustrate this much needed effort to enhance Federal computer system security.

This country cannot afford a hemorrhage of vital national security information. Federal computer security is critical to the cost-efficient implementation of Federal programs as well as to a secure future for all Americans. As chairman of the Senate Subcommittee on Technology and the Law, I look forward to continuing to work the National Security Agency and the National Bureau of Standards to promote necessary, strong, and cost-effective Federal computer systems security.

Access to information by our country's scientists, inventors, scholars, historians, journalists, and, most importantly, American citizens is also vital to America's future. Interest in, and awareness of, the activities of our national government instills vitality in our political process. Therefore, computer security legislation must be carefully crafted so that it safeguards systems without restricting access to unclassified information.

That is why I would prefer that the legislation not include the charged phrase "sensitive information." However, I have worked to ensure prompt passage of the bill because of the urgency of reasserting civilian control over the computer systems of the Federal Government. I hope that the next time the Congress considers this issue it will aviod terms that raise fears of increasing Government restriction over access to unclassified information.

As used in the Computer Security Act, the phrase "sensitive but unclassified information" is intended to underscore the importance of information held in Federal computer systems, particularly as it affects the conduct of Federal programs or the privacy of individuals. As defined in the legislation, this term is an explicit rejection of the broad and ambiguous phrases used in NSDD-145 and the 1986 National Telecommunications and Information Systems Security Policy No. 2. It does not create another category of restricted Government information. (See H. Rept. 100-153, 100th Cong., 1st Sess., pt. 1, at 24, 31.)

Further, the Computer Security Act states that public availability or use of information shall not in any way be limited. I discussed the Freedom of Information Act with the ranking minority member of the Technology Subcommittee earlier today. The House Committee reports on section 8 examine other laws. (See H. Rept. 100-153, 100th Cong., 1st Sess., pt. 1, at 31, Committee on Science, Space, and Technology); H. Rept. 100-153, 100th Cong., 1st Sess., pt. 2, at 30-31 (Committee on Government Operations)).

In closing, Mr. President, I want to say that we are adopting a good piece of legislation that reflects several years of congressional study. This act will coordinate many aspects of Federal computer security without trampling on the rights of its users, the ultimate beneficiaries of all activities undertaken by this Government, American citizens. As we are protecting the security of Federal computer systems, we will also safeguard the most precious right of Americans—the opportunity to understand and participate in the activities of our Government.

I would like to thank Senators CHILES, HOLLINGS, GLENN, ROTH, and HUMPHREY for all their help on this legislation. I would also like to thank their staff members, Bob Coakley with Senator CHILES, Pat Windham with Senator HOLLINGS, Stephen Ryan with Senator GLENN, John Elliff and Ed Levine with the Senate Intelligence Committee, John Parisi with Senator ROTH, and George Smith with Senator HUMPHREY, for their hard work.

Finally, I would like to thank my own staff, Ann Harkins and Marc Rotenberg, for their efforts to ensure passage of the Computer Security Act of 1987.

Mr. ROTH. Mr. President, I am pleased that the Senate is considering H.R. 145, a bill that will help improve the security of the ever-increasing number of computer systems utilized by the Federal Government. The provisions of H.R. 145 will strengthen Federal efforts to deter computer crime and to ensure the integrity and privacy of information stored in computer systems utilized by the Federal Government.

The bill appropriately divides responsibility for developing computer security standards between the National Bureau of Standards and the National Security Agency. NSA will provide guidelines for computer systems which handle classified information and NBS will provide guidelines for those which handle unclassified but sensitive information.

One concern that was raised over this division of responsibility was the potential for duplication of effort. The terms of the bill seek to militate against that, and the ongoing cooperative efforts of NSA and NBS will be continued under the bill.

Continued cooperation between NSA and NBS under the terms of this act will be helpful to the many private firms which are in the business of developing computer security systems. The process of testing and validating these systems for use by the Federal Government, particularly our defense and intelligence agencies, is very rigorous and can take a long time. Some of these firms, including firms in my State of Delaware, were concerned that they might be forced to run the gauntlet twice: once through NSA's National Computer Security Center and then again through the National Bureau of Standards. I have been assured by NBS that, once a system has passed muster at NSA's Computer Security Center, it would not have to go through the NBS process for use by agencies with unclassified systems. If the system provides the additional safeguarding required for classified systems, it would clearly be sufficient for use by agencies with unclassified systems.

So, I am pleased that agreement has been reached to clear this legislation for the President's signature and look forward to its successful implementation.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

COMPLIMENTS TO MAJORITY AND MINORITY FLOOR STAFFS

Mr. BYRD. Mr. President, I thank my friend, Mr. ARMSTRONG, for his cooperation.

I want to take this opportunity, also, to thank our excellent floor staffs on both sides of the aisle, who have made it possible for the Senate to conduct its work expeditiously and very professionally.

Mr. ARMSTRONG. Mr. President, I should like to join in the majority leader's commendation of the floor staffs. It is just extraordinary, the level of responsibility and the patience and attention to detail which this handful of people on the floor demonstrates. They do the vast bulk of the routine work of the Senate. The majority leader is quite right to compliment them.

Mr. BYRD. What we see is really a phenomenal job done by Howard and Elizabeth Greene, Charles Kinney, Marty Paone, and Bill Norton. These people work together so well, and they make our work easier. They are exceedingly pleasant to work with.

I compliment the people on the other side of the aisle. This fine young lady, Elizabeth Greene, and her husband, Howard, are pleasant to work with. It makes my work a lot easier and certainly moves the work of the Senate along.

Without their cutting the briars out of the path, the Senate would not be able to act as expeditiously and as thoroughly as it does.

THE MAJORITY LEADER'S SINE DIE TIE

Mr. LEAHY. Mr. President, will the distinguished majority leader yield?

Mr. BYRD. I yield.

Mr. LEAHY. Mr. President, I concur completely in what the majority leader has said. I do not know what any of us would do without the staffs on both sides of the aisle.

I also note something else.

In my State, we have certain harbingers, as other States do: the robin, the first harbinger of spring; the maples changing color, the first harbinger of fall.

Mr. President, I note that the distinguished majority leader has the one harbinger that all of us look for day after day at this time of the year. I refer, of course, to that unique item of haberdashery, his sine die tie.

Many of us have looked in vain for that the past few days, and now I hope it is not a mirage. I hope it is not an illusion. I hope that that tie, which comes out only on occasions such as this, is an indication that perhaps there will be freedom for the Senate 100.

So I say that, like the robin in the spring and the maples in the fall, the unique tie of the distinguished Senator from West Virginia is the harbinger of sine die—I hope.

Mr. BYRD. I thank the Senator.

Mr. President, I hope I am not still wearing it at this time tomorrow night. [Laughter.]

I thank the distinguished Senator for his very generous comments.

TRIBUTE TO BOB BERRY, READING CLERK OF THE HOUSE OF REPRESENTATIVES

Mr. BYRD. Mr. President, Bob Berry is one of the reading clerks of the House. He delivers messages to this body often, and we all are accustomed to seeing his similing face as he comes in the south door of the Chamber.

He has been the reading clerk in the House for the last 17 years. Before that, he was minority counsel to the Senate Governmental Operations Committee and legislative assistant to the late Senator Carl Mundt.

I call to the attention of my colleagues that this will be the last time that Bob Berry delivers a message to this body. [Applause.]

MESSAGE FROM THE HOUSE

At 11:09 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3545) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988.

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

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

The Senator from Florida is recognized.

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

Mr. CHILES. Yes.

Mr. BYRD. Could he and his distinguished counterpart give to the Senate some indication of the time that they believe will be required on this report so that we can notify Senators. Some Senators will need 30 to 40 minutes, probably, notice to get here for the rollcall which will occur on the adoption of the conference report.

The CHILES. Mr. President, I think they ought to start if they are going to need that long.

Mr. DOMENICI. I concur, unless someone around here wants to talk a lot longer than I.

Mr. CHILES. I say they are starting late.

Mr. BYRD. Very well.

Mr. CHILES. I am going to take a few minutes in my remarks.

OMNIBUS BUDGET RECONCILIATION ACT—CONFERENCE REPORT

Mr. CHILES. Mr. President, I submit a report of the committee of conference of H.R. 3545 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3545) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1988, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 21, 1987.)

Mr. CHILES. 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.

Mr. CHILES. Mr. President, in the long fight against the Federal deficit, this has been the longest year. With the approval of this conference report, we can make it the most successful year.

This is not the first time we have spent months of hard work or dealt with frustrations. But this time all the effort has produced landmark results.

As a practical matter, we are about hopefully to agree on the largest deficit-reduction package in history. It is real and it is for 2 years. We said we wanted to get $76 billion in savings at the summit, and that is exactly what we have done.

Of the savings we aimed for, roughly $50 billion of that amount is contained in the reconciliation package now before the Senate.

Included in that amount are $13.5 billion in entitlement savings—$5.8 billion for 1988 and $7.7 billion for 1989.

When added to the provisions included in the continuing resolution,

the total savings on the spending side are $33 billion—$20 billion in domestic and $13 billion in the military.

So, Mr. President, with the nearly $50 billion in deficit reduction contained in reconciliation and the additional savings in the continuing reconciliation, we will have reached our goal of $76 billion cut from the deficit.

This agreement stands for something central to the future of the economy. A year ago—as the Senate changed hands—all that people were talking about was suspicion and doubt and impasse.

A year ago, all the predictions were that the President would not work with a Democratic Congress and the Congress would not cooperate with the White House.

A year ago, the budget process was a watchdog without teeth. The automatic provisions of Gramm-Rudman-Hollings had been removed and the deficit was high and all indications were it was going higher.

And a year ago, the only attention anyone paid to the deficit targets was who would miss them first.

So, while this has been a very long year, it has been a year of very great change.

We have for the first time in many years, a bipartisan, bicameral agreement. Working together for just 2 months, we have cut the deficit by $75 billion. If we can keep it up for another year or two, we can get to a balance.

So, a Democratic Congress, a Republican President, and a minority under the Republicans in Congress have worked together. We restored the automatic features of Gramm-Rudman-Hollings. And we have worked out an effective agreement to reduce the Federal deficit.

Any time people meet face to face to work out their differences in public, there will always be people on the sidelines and in the bleachers who compare the outcome with some set of ideals. You get a lot of critics who say what it should have been and everything that should have been in it.

Some years ago a gentleman from the media said a critic is the person who walks across the field after the battle is over and shoots the survivors.

Those of us who have been through the battle—and there have been so many who fought so long to put this package together—know what it has been like.

We have heard from the groups on one side who suffered some pain. We have heard from groups on the other side who preferred a scorched-earth approach. And we have left some tears of our own on the negotiating table.

But we have been through the battle, and I am convinced time will tell us it was a major victory for the American people and for the Nation's economy.

Within the last couple of days, we have had a report from the Institute for International Economics that spoke of a global economic collapse unless we did better. The report of the economists called the summit agreement, grossly inadequate—but, of course, that comes from a profession with a tendency to be "grossly inaccurate."

Yet, the economists warned that we need $40 billion in deficit reduction each year for the next 4 years, and that is something I agree with. In fact, that notion is at the center of the package before the Senate which aims to reduce the deficit at least $36 billion in each of the next several years.

Here is the point. The reconciliation conference report is tough. It involves sacrifice, taxes to pay, and funds denied. It will make a positive difference in the course of the Nation's economic affairs.

The reconciliation package achieves Medicare savings of $2.1 billion in 1988 and $3.9 billion in 1989, with the bulk of those savings derived from physicians and hospitals rather than from Medicare beneficiaries.

In Agriculture programs, we have found savings of almost $800 million over a 2-year period from target price and income support reductions, and nearly one-quarter of a billion dollars from a decline in the loan rate.

We have saved $250 million in the Guaranteed Student Loan Program.

We have raised nuclear regulatory cost recovery levels from the current 33 percent up to 56 percent.

Through the work of the House Committee on Post Office and Civil Service and the Senate Committee on Governmental Affairs, we have found savings totaling some $1.7 billion over 2 years. This includes a deferral of roughly 60 percent of the 1988 capital investment projects.

Any Member of the Senate can go home for the holidays and face the people of their States with a good conscience. You can say, if you like, we didn't do everything we should have done.

And you will be right. We did not.

Any Member of the Senate can point to a list of spending cuts he or she might have preferred. Some can go home and say it is too bad there are extra revenues in the package. All of us can go home and say we should have taken more out of the deficit.

But at the same time, each of us can return home and say we did well. We have done extremely well under unique and demanding circumstances.

This conference report is worthy of the Senate's support. I strongly encourage all Members to look at the good it achieves, to recognize how far we have come, but not lose sight of the fact that we still have so far to go.

Let us take this key step and renew our pledge to go the whole route.

Mr. President, I ask unanimous consent that additional materials detailing the provisions of the reconciliation package be printed in the RECORD.

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

TABLE 1.—TOTAL SAVINGS OF RECONCILIATION CONFERENCE AGREEMENT

[In billions of dollars]

	1988	1989	1988–89
Revenues:			
Hard taxes	9.078	14.097	23.175
User fees as revenues	0.335	0.318	0.653
Subtotal, revenues	9.413	14.415	23.828
Spending:			
Other user fee provisions	0.030	0.030	0.060
Entitlements and other:			
Medicare	2.094	3.921	6.015
Other finance provisions	0.136	−0.338	−0.202
Farm price supports	0.997	1.511	2.508
GSL balances	0.234	0.000	0.234
Postal/civil service	0.860	0.854	1.714
PBGC premiums	0.400	0.400	0.800
VA origination fee extension	0.198	0.201	0.399
VA loan guarantee	0.800	1.083	1.883
VA vendee loans	0.042	0.024	0.066
Tongass Timber Supply fund	0.040	0.045	0.085
Subtotal, entitlements	5.801	7.701	13.502
Loan prepayments and asset sales	7.700		7.700
Debt Service	0.904	2.407	3.311
Subtotal, spending	14.435	10.138	24.573
Total deficit reduction	23.848	24.553	48.401

TOTAL SAVINGS IN RECONCILIATION BILLS—SUMMIT AGREEMENT, SENATE-PASSED AND CONFERENCE AGREEMENT

	Summit	Senate	Conference
Revenues and spending:			
1988	14.800	15.390	15.244
1989	21.950	22.070	22.146
Asset sales:			
1988	5.000	7.850	7.700
1989	3.500	3.500	
Debt service:			
1988	0.780	0.916	0.904
1989	2.274	2.536	2.407
Subtotal:			
1988	20.580	24.156	23.848
1989	27.724	28.106	24.553
Discretionary savings:			
1988	7.600	7.600	7.600
1989	14.000	14.000	14.000
IRS compliance:			
1988	1.600	1.600	1.600
1989	2.900	2.900	2.900
Additional debt service:			
1988	0.4	0.4	0.4
1989	1.2	1.2	1.3
Total:			
1988	30.200	33.740	33.444
1989	45.850	46.170	42.746

Mr. CHILES. Mr. President, I will yield now, but first I express my profound appreciation and support to my friend and colleague, the distinguished Senator from New Mexico, the ranking member on the committee, who has served so well as chairman of the Budget Committee, and say how much I enjoyed working with him as we tried to work together on this package and how much I am indebted to him for his efforts and his support, without which we could not be here tonight with this kind of package.

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

Mr. DOMENICI. Mr. President, I first thank my good friend from Florida, the distinguished chairman of the Budget Committee, for all of his work in bringing this day, and hopefully not only this day, but bringing this bill and the one that will follow it, the continuing resolution, the appropriations, before the U.S. Senate, and sending both to the President of the United States. I think it should be a very happy day for him.

Having said that, Mr. President, I am going to take about 10 minutes. I will be delighted—and I am sure my friend from Florida would—to answer detailed questions about this package. But I would like in my own way to indicate to the U.S. Senate and those interested in matters that pertain to our deficit why we are here and why I believe it is imperative that we pass this resolution tonight, this reconciliation resolution, and that we pass the continuing resolution which will follow it, hopefully, later in the evening.

Mr. President, if we look back on this year when this country suffered the shock of the precipitous drop in the stock market, many people in the U.S. Congress on both sides of the aisle, Democrats and Republicans, asked the President of the United States to engage himself in a process of negotiating with the Congress for deficit reduction. And, frankly, Mr. President, we would not be here, in my opinion, if the President had not agreed to that.

Whatever the reasons, whatever the motivation, I believe we should say thank you to the President of the United States for agreeing to meet with us, both Houses of Congress, Members of the leadership of the Senate and the Republican Party that went to meet with him.

Now, whether or not this package is adequate, nonetheless it is my humble opinion that we would not be passing a reconciliation bill with new revenues, with significant entitlement cuts, restraints and reforms, with 2-year caps on appropriations for defense and domestic appropriated accounts—one which we will live up to shortly when we pass the bill on appropriations and the other that we will be obligated to live up to next year—if it had not been for that summit conference.

So, obviously, I extend my appreciation to those Members of both Houses that met for those long and difficult days in an effort to reach an agreement. Now, I admit, so long as we have a democracy in the House and the Senate, we cannot go to a summit conference and evolve, as some would like us to, with a fiat and hold a piece of paper out and say to all of the committees of the Congress and the President of the United States: "Here is an agreement. It now is the law of the land." That just is not the way America operates.

So we have had a difficult time. As a matter of fact, in order to incorporate the essence of that summit agreement, it is my recollection that 18 subconferences under the budget resolution—meaning 18 separate groups of House and Senate Members, Republican and Democrat—had to meet to reach this goal. And at the same time, in a whole other process, the U.S. Congress and its appropriation representatives had to pass an appropriation bill. And we have 13 separate appropriation bills as a matter of precedent. And they had to put those together and then reach the targets that had been agreed upon in this summit conference.

And, yes, in the last few days it has been tedious, onerous, difficult, cumbersome. And people have thought, "Why can't we do something better than this?"

Well, obviously, the summit was late in the year and perhaps somebody can find a way to do it better. But, in essence, tonight, when we pass this reconciliation bill, we will adopt the revenues, new revenues, agreed to by our President almost to a letter for 1988 and 1989. We will adopt reforms in entitlement programs for agriculture, Medicare and others that, for all intents and purposes—but for some conflicts in scorekeeping, which are inherent especially in Medicare—complies with the summit understanding. And then we will have accomplished the asset sales and the user fees contemplated by that agreement.

In toto, it is our estimate that this package in the first year will reduce the deficit by about $33 billion. And if the asset sales contemplated in the second year are accomplished, we will get $45 billion to $46 billion in the second year. You add the two together and that is a substantial deficit reduction package.

I agree with the distinguished Senator from Florida. In terms of substantive policy changes on the revenue side and the entitlements side, this will be the most significant reduction in the deficit by actual action of Congress that we have had in the history of the budget process. And it is obviously somewhat convoluted, it occurred through a summit conference, but when we finish it tonight it will be real.

And this is it. It is extremely complicated; many pages.

But I believe that when the President and his advisers finally look at it, they may have three or four objections, principally on scorekeeping and principally on Medicare, but I believe it ought to be signed. It is, essentially, in the first year, on substance and savings, within the four corners of the agreement we reached in that summit; not with reference to each specific asset sale or user fee, but in toto it does precisely and slightly more than we agreed to in the summit conference. I think we ought to adopt it.

And for the nonbelievers who said we could not do it, we ought to do it here in both Houses within the next couple of hours. And, hopefully, sometime tomorrow after an opportunity to review it, the President will sign it. I hope he will.

For those experts called economists and for those on Wall Street who complained that this was not enough, I suggest that it is an awful lot better than what we would have before us if we had not had the summit and if we do not adopt this. And in my humble opinion it is far better than putting the Government on automatic pilot and having the across-the-board cuts of Gramm-Rudman-Hollings.

I need not repeat why, but I believe when we work together to achieve something, it is better than sitting around and having the across-the-board cuts.

So, frankly, I think we should adopt it. I compliment those who worked on it—those who crafted the Gramm-Rudman-Hollings law that kept the heat on, the President who asked us to meet with him after he was urged to. All of those who participated in it, I compliment them.

It is not what I would draft if I was here all alone. It is not what Senator CHILES would draft if he was drafting it all alone. But, considering that we have to accommodate so many people, it has now passed the House, I hope we pass it tonight.

To Wall Street, whose voices say we should do much more, well, frankly, I believe had we tried more in the summit, we would have had all of the same difficulties and maybe more. We are here tonight with a credible package. I urge its adoption.

I yield the floor.

REJOICE IN RECONCILIATION

Mr. BYRD. Mr. President, for much of this year we have been wrestling with the purse strings that the Constitution places in our hands. For several years, the budget deficit seemed to become an every day fact of life. It would not, we were told, cast a shadow on the bright new morning in America.

We knew better, Mr. President. And this year, the financial markets have sent us warning after warning. A tumbling dollar, the midyear rise in interest rates, and the Black Monday plunge in stock prices, pushed the President into serious negotiations with the Congress.

The first step was an agreement between the Congress and the President to cut the deficit by $76 billion over 2 years. The initial agreement was followed by tough decisions on specific budget cuts and revenue increases in-

corporated into the reconciliation conference report.

This conference report is not all that each of us would have crafted if left to our own devices. But it is a responsible, credible fulfillment of the budget agreement between the President and the bipartisan congressional leadership.

In fact, the reconciliation bill is a considerable achievement. Its enactment, along with the continuing resolution, will result in the largest 2-year legislative package of permanent deficit reduction. That is not a mouse. It is an achievement of which we can be proud.

Furthermore, this bill does another thing. It shows that Government works. It shows that despite some tortured procedures, the Congress and the President can work together to solve our pressing problems. I hope the results of this cooperation will not be lost on the White House as we look to next year. Nothing could be more reassuring to Wall Street, to our allies, and to the American people.

The provisions of this conference report will cut the deficit by some $76 billion over the next 2 years. They will raise about $23 billion in new revenues over that period and make even greater reductions in spending. In addition, this bill, combined with the continuing resolution, will reduce discretionary spending, both in defense and domestic programs, by $21 billion.

Mr. President, some critics have complained that this was a painless package. Well, I can tell you that the nearly endless series of meetings these past many weeks and over this past weekend especially late into the evenings on Saturday and Sunday, revealed a considerable degree of anguish over many of the provisions in this conference report.

But those cuts, and the revenue increases, were needed to fulfill our agreement with the President and to reduce the deficit.

Many Senators, Mr. President, played a part in crafting the reconciliation conference report. I want to thank them all, and I thank their counterparts in the House who worked long and hard to reach the agreement that is now before us.

I especially want to note the cooperation of the Speaker, Mr. JIM WRIGHT, the majority leader in the House, Mr. TOM FOLEY, DANNY ROSTENKOWSKI, and TONY COELHO. Their efforts throughout the budget summit, especially the outstanding work by TOM FOLEY as chairman of the budget negotiations, were instrumental in reaching the agreement and implementing it. The President's representatives, particularly Howard Baker and Jim Baker, played a critical, constructive role throughout the process. And my good friend, the Republican leader, ROBERT DOLE, also lent his valuable support and advice to our efforts, and his presence throughout the weekend and throughout many of the meetings that occurred during the several weeks, to bring the budget agreement to fruition.

There are several Senators who played a particularly prominent role in hammering out the final agreement on reconciliation. Senator BENTSEN and Senator PACKWOOD labored for many days to meet the targets for revenue increases.

They also worked with Senators MITCHELL and CHAFEE who did yeoman's work in forging a compromise on Medicare and Medicaid—another difficult job well done.

Senators JOHNSTON and MCCLURE not only found their share of budget cuts but also worked out an agreement on a permanent site for storing nuclear waste.

Senators GLENN, PRYOR, ROTH, and STEVENS, like the rest of the conferees, faced the challenge and found a way.

And Senators LEAHY and LUGAR found their task complicated by the fiscal plight of many farmers. Yet once again, they overcame the obstacles and fulfilled their responsibilities in connection with the budget agreement while keeping essential programs from foundering.

Other committees also held up their part of the bargain. I thank the members of the Commerce Committee under Chairman HOLLINGS and Senator DANFORTH; the Environment Committee under Chairman BURDICK and Senator STAFFORD; the Labor and Human Resources Committee under Chairman KENNEDY and Senator HATCH; and the Veterans Committee under Chairman CRANSTON and Senator MURKOWSKI.

On a related issue, I also commend the hard work of those Senators who remained at their posts to resolve the vexing issue of aid to the Contras, particularly Senators INOUYE, SASSER, HARKIN, STEVENS, and RUDMAN.

Mr. President, I have not yet mentioned the principal architects of the reconciliation bill. Senator CHILES and Senator DOMENICI deserve an extra measure of thanks. Their year has been swallowed by the effort to meet the Government's fiscal needs and still reduce fiscal deficit. Senator CHILES' masterful management of this difficult budget package is an added reminder of how much we regret his decision not to seek reelection next year. And, of course, Mr. DOMENICI and his expertise and experience in being chairman of that committee has contributed, likewise, and likewise his time has suffered and his sacrifices have also been great.

Mr. President, our year of wrestling with the budget is coming to an end. Our task is not complete. But the progress we have made is testimony to what can be accomplished when we work together. It has been a long year with a particularly arduous conclusion. True to the spirit of the holidatys and the spirit of the times, Mr. President, I can only say God rest ye weary gentlemen and women.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I am going to overcome my natural reluctance to follow such a gracious and warm-spirited statement with a discourging word, but I do not agree with any of the characterizations that we have heard thus far of this legislation. If this bill contributes one iota to strengthening the economy of this country, I will be utterly amazed. And deep down in their hearts, Mr. President, I do not think there are very many Senators who honestly believe that that is the case.

Mr. President, this legislation is virtually the opposite of what it has been characterized to be. If words have any meaning—and after being around here for about 10 years I am not sure they do—but if words have any meaning we ought to speak with great care and great precision before we put our stamp of approval on this legislation.

Now, how did we get here? A few weeks ago it suddenly dawned on some people that Gramm-Rudman-Hollings, with its automatic sequester provision, was going to cause an automatic $23 billion reduction from the baseline in Federal spending. Not a reduction from what we spent last year. We were not going to really be asked to tighten our belt. But we were going to automatically take $23 billion off of the amount which was assumed to have been spent next year under the formula.

Let us first think about what that formula is. The formula is last year's spending plus a little over 4 percent.

Now, from that the Gramm-Rudman-Hollings sequester would take about $23 billion. It so happens that is about 2 percent. So the awesome prospect was that the Federal Government for next year, if we had let the sequester go into effect, would have had to get by on an increase of only about 2 percent.

It so happens, Mr. President, I have got quite a few people out in Colorado who are not going to have a 2-percent increase in their income. They are not going to have a 3-percent increase. Not even a 1-percent increase. But the Congress of the United States trembled at the thought that somehow we were going to have to get by and run the Federal Government for 1 year on only 2 percent more than the largest amount that had ever been spent at any previous time in history. We just could not let that happen.

You know, it was really remarkable to see how the leaders of our country acted when confronted by the pros-

pect that we have an automatic sequester. That is a mechanism, it is interesting to note, that a majority of the House and Senate voted for and the President signed into law, somewhat grudgingly, I guess, only a few weeks before. But when the reality of it came upon us, somehow we just could not let that happen. We had to find some way out of this dilemma and so, by gosh, we put together this summit conference and we got the Director of OMB and the Secretary of the Treasury and a bunch of important leaders from this Chamber and the other body and got them around the table for about 4 weeks and they finally produced the budget summit conference, which is implemented in part by this budget reconciliation bill.

Mr. President, I do not think there is anything to be proud of here, and I do think there are some alternatives—even, yes, at almost midnight on what we hope is the last night of the session. There is another, better, wiser course. One of the things we have been told is that we have somehow got to pass this bill because if we do not, there is no other way out. And that is not true. There is another alternative. That is, if we defeat this, we will get a sequester and so instead of getting $12 billion or $14 billion in cuts, some of which are not very real, some of which are correctly described as smoke and mirrors, we would get $23 billion in real cuts.

That may be too much for some, but I will just tell you there is at least one Senator who think that $23 billion in cuts from an inflated baseline is not only reasonable, it is minimal. It is pusillanimous. It is just the start of what we ought to do.

Mr. President, this is a proposal of golden gimmicks, smoke and mirrors, and so much cosmetics that it would make Mae West blush and I just want to take a few minutes to take a look at what the specifics are in this conference report. It is alleged that we are going to have budget deficit reductions from the baseline, admittedly an inflated baseline of $23 billion. I have been handed, I guess, just within the last 20 minutes, a list and a little background and explanation and items just jump off this page. These things are phonies, Mr. President. They are not, by any reasonable standard or definition, deficit reductions. They are certainly not spending reductions.

What is the largest single item on this list except for the tax increase which I want to discuss in a moment? The largest single item is $7.65 billion in asset sales.

Now, an asset sale may be a good idea. In fact, I think there are a lot of things we could do without. There are even some things the Government owns that I would be glad to give away, but that does not make it a deficit reduction by any ordinary standard of accountability. That does nothing to reduce the Federal budget deficit. True, it produces some cash.

You know, any private company, any of the companies that are regulated by the New York Stock Exchange or by the Securities and Exchange Commission, in fact any public company, I think, has to adhere to what the accountants call generally-accepted principles of accounting.

There is not any accountant that I ever heard of who would say that this, under ordinary, accepted principles of accounting, ought to be scored as a budget deficit reduction measure, and yet that accounts for over $7.5 billion of the $33.5 billion in projected savings under this conference report.

The second largest item is defense savings, and I presume those are real, about $5 billion.

Another item which is probably real and which I applaud is the $1 billion in the savings in the Farm Program. I note with approval that we are actually going to reduce not much but slightly, the target prices and make some savings in that way.

I wish that this was not necessary, but I think it is, and I do congratulate the conferees for having the courage to at least make some real savings.

I think it is an irony that when they have piece of legislation which is full of smoke and mirrors, that one of the few places where they really come down hard and make some genuine savings, about a 4-percent reduction in target prices for next year, is on a segment of our economy which is most defenseless.

I support it. It is something we should do. But I would like to see some cuts in other programs in the context of an across-the-board cut which affected more of the affluent section of our society. I do not see how we can give ourselves a pay raise, raise salaries for Federal employees, raise many, many programs of low priority, and then say to the farmers, "We are going to cut you back."

I think they should be cut, but I think others should be as well.

Mr. President, I mentioned smoke and mirrors. Here is another one that I wonder if Senators really think can be called or scored properly as a budget deficit reduction measure. That is $1,200,000,000 in debt service.

That means that there is an estimate that we are going to save on interest rates. It may turn out to be true; it may not. Either way, that is a saving that would have occurred over and above the $23 billion or $24 billion which are automatic under the sequester of Gramm-Rudman-Hollings. So it will probably not materialize, but, if it does, it still is not properly scored as a spending restraint or a tax increase. It is just a number that has been plugged in there.

Mr. President, it is analogous in some sense to the magic asterisk that we plugged in one year in the budget. Remember that thing? The then Director of the OMB came to town and said we were going to save a certain amount of money but we did not know how to do it, so we put an asterisk in the budget and said they would tell us later what it would be.

It is not accurate to say that this is a spending restraint.

Mr. President, that brings me to the savings of about a $58 billion saving in the VA Loan Program. That is phony. The conference agreement alters the current restriction on nonrecourse vendee loan sales by allowing the VA to sell these loans with or without recourse, depending on a determination by the Administrator of the VA as to which basis would be in the best interest of the functioning of the Loan Guarantee Program.

In other words, we are going to do basically, not exactly, the same thing we have done every year, but we are going to account for it in a slightly different manner, and, as a consequence, we are going to claim a savings under this proposal in order to head off the dreaded Gramm-Rudman-Hollings sequester.

Then, Mr. President, we are going to recapture some money in the Student Loan Program, the balances which the agencies maintain to meet their obligation. It is probably a good idea. So far as I know, it is. But it is not spending restraint by any manner or means. It is just instead of being in the bank accounts of these agencies, the money will be recaptured to the Treasury. But to anyone who thinks it is a deficit reduction or spending restraint, I honestly cannot see it.

That brings me to the tax portion of the bill.

I clipped an editorial that appeared on the 5th of December in the New York Times. I do not always agree with the New York Times, but they are a very thoughtful publication.

I must say I was surprised about their frank characterization of what was going into this budget summit conference. They wrote this editorial up with the headline "The Senate Fakery Committee's Bill:"

> The Senate Finance Committee has been working to cut the budget deficit, but not very hard. The new tax bill would make corporations pay $1.6 billion next summer that would not otherwise be collected until next fall. That is not a tax increase but a speed-up. It accounts for almost one-fifth of the committee's $9 billion package to reduce the budget deficit. Pure fakery.

The words of the New York Times. The editorial goes on.

> I think it is reasonable for Senators who were concerned about the allegations of fakery, and that is only one—there are some others in the tax portion of this bill—to ask how did the conferees do? Did they improve

it? Did they make it worse? How are we ending up? What is the level of commitment that is implied by the adoption of the tax portion of this bill?

With the world waiting with bated breath to see if the United States can stem the tide of red ink in its budget, with the Nation's securities markets precariously balanced, we are told, and all over the world—in Tokyo, in Europe, in Zurich, you name it—other countries taking their cue from what happens here, what in the world is the Senate Finance Committee and the Senate doing about it?

Well, I am going to tell you. One day not too long ago, we had one-fifth of the Members of the Senate plus a number of the most important leaders of the administration, including the Secretary of Treasury, considering a proposal to deny the dependent care credit for overnight camp expenses. Can you imagine the boldness, the courage of these leaders gathering together at a moment of crisis, to find out if camp expenses have been contributing to this horrible financial mess that we find ourselves in?

That is one of the actions that emerged in this bill. I do not know how you feel about it. It is a tough issue, but, by golly——

Mr. GRAMM. Had that been a part of our problem?

Mr. ARMSTRONG. They concluded that it had been. They did not have the guts to take on the tougher issues but they did take on the camping expenses.

The provision for overnight camp expenses has been taken care of in this reconciliation, and we do not have to face the prospect of that abuse continuing indefinitely.

Mr. President, this $9 billion which is the alleged amount which will be contributed to deficit reduction, and that is part of the smoke and mirrors which I will mention further in a moment, if you take that at face value, do you know that that $9 billion brings to exactly an even round $1 trillion the amount of tax increases that we have legislated for the period 1982 to 1990?

This includes TEFRA, 1982; DEFRA, 1984; COBRA, 1985; OBRA, 1986; the gasoline tax, and the higher Social Security taxes which we have legislated. I am told that the sum of those through 1990 is exactly $991 billion, and the alleged amount of this is another $9 billion, which brings us up to $1 trillion.

Anyone who thinks that you can grow strong, that our economy can grow strong, if we are just courageous enough to raise taxes, must be convinced that our economy is stronger than gangbusters because that is $1 trillion in tax increases.

Now I want to address the specific features that are contained in this bill because not only do I not like the idea, and not only do I think it is fiscal horseplay at best, but the specific pieces which have been included I think are most ill advised.

First of all, we are going to extend a surcharge of two-tenths of 1 percent on all taxable wages for the Federal Unemployment Tax Act, FUTA. In other words, we are going to continue a two-tenths-of-1-percent tax on employment.

One of the people here on Capitol Hill whom I admire greatly likes to point out if you want more of something you subsidize it; if you want less you put a tax on it.

We are putting a tax tonight on employment, not a huge tax, just a little one, two-tenths of 1 percent.

What we are really saying is that every time an employer wants to think about whether or not to add one more person to his payroll, there will just be a little marginal increment of disincentive to do so.

You might not think that is important, but the reality is that in most large corporations and many small ones in this country today payroll taxes are a much bigger cost of doing business than the combined total of Federal and State income taxes. Let me say it again. Payroll taxes cost more to a lot of companies than income taxes. Is it any wonder that we have suffered for years with the problem of growing unemployment? Because we are taxing it, and it is no wonder we are getting a lot less of it.

The same applies in a sense to the requirement to tax cash tips. Four hundred and sixty-five million dollars is estimated to be removed from the restaurants around this Nation over the next 2 fiscal years by requiring those businesses to pay more in FICA taxes, 7.15 percent on tips paid by customers to employees when tips bring income above the minimum wage.

The next item that is included in the package is a freeze on estate and gift taxes. It is expected to raise $197 million in 2 fiscal years by freezing the tax rate at 55 percent for 5 years, thereby reversing a reform which was long sought and widely applauded when it was scheduled to decline to 50 percent.

In fact, I remember, Mr. President, a lot of people in this Chamber and beyond the walls of this Chamber really applauded when we said that no more were we going to tax estates at more than 50 percent. By definition, this is money that has been accumulated by people after they have already paid their Federal income tax, paid fair FUTA taxes, paid their FICA taxes, paid their gasoline taxes, paid their State taxes of all kinds and then at the end of their life there was some thought that just a sense of justice and fair play would limit to no more than half the amount that the Federal Government would get after a person is gone; that a person, after working a lifetime and paying their taxes and getting by and doing the best they can, for heaven's sake, at least ought to be able to leave half of whatever they had managed to accumulate to their children and grandchildren, and so on.

I remember that very well. That was thought to be a big reform a couple of years ago and now we are reversing it. I do not know whether it is fair. I do not think so. I know it will have a great practical effect in some of the farm communities around where it will make it that much harder, and significantly harder, 10 percent harder, roughly, to keep these family farms and small businesses together.

In addition, a related provision would have repealed the State death tax credit and replace it with a deduction. That means to my State of Colorado about $18 million. I asume that the State legislature will not have to find some way to raise taxes in Colorado by $18 million to make up for that.

Then we are going to extend the 3-percent telephone tax, and that is a regressive one.

And here is one that I believe very few Senators realize is in this bill. There has not been a lot of discussion about it but there should be. The foreign tax credit and deferral of U.S. tax on income from a controlled foreign corporation is denied by this bill if it arises with respect to South African activities. Not if it applies to Russia or to Cuba or Nicaragua or any other country so far as I know—and I am ready to be corrected, because I just learned of this recently myself, but if you are doing business in South Africa you get taxed differently than any other country in the world.

Mr. President, I am ill-prepared to tell you the specifics of a measure which changes in a way about which I am uncertain the lobbying and political activities of the tax-exempt organizations. It is simply not clear. This thing has been put together so fast and come to us so suddenly that my staff is unable to report to me, nor am I able to report to you, with precision exactly what has happened. The House adopted some limits on political and lobbying activities of some tax-exempt organizations, and the penalty for exceeding those limits is the loss of tax-exempt status at a 10-percent excise tax on the amount spent on political activities and 5 percent of the amount spent on lobbying activities. I cannot tell as we prepare to vote exactly how that turned out in the final draft of the bill.

Now, those are some of the things that are wrong with this legislation. In support of it, we are given the following arguments. First, this is going to impress Wall Street. Mr. President, I have talked to lots of Wall Streeters in

the last month or so. I talk to a lot of them all the time. I serve on committees whose jurisdiction touches Wall Street. I am on the Banking Committee. I am on the Securities Subcommittee. I am on the Finance Committee. I am on the Budget Committee. And over the years I have just come to have great respect for the intellectual horsepower of the people who head up and work in these great securities organizations. I do not know of one—there probably are a few, but I do not know of one Wall Streeter who is impressed by the budget summit conference, and I know a lot of them who are laughing about it; they think it just shows that their worst suspicions about the Congress are right.

In fact, I do not know whether I should really tell this. Maybe I will not. Mr. President, I think I will skip over what I was about to say. It is probably ill-becoming of me to share the insight, but suffice it to say that at least in many quarters on Wall Street there is a genuine contempt for the way the Congress of the United States handles the Nation's fiscal affairs. Any notion that this is going to impress them is simply not borne out by contacts that I have had among people who are on the firing line.

The second allegation is that we have no alternative. We do have an alternative. If we defeat this bill, we get a sequester with $23 billion or $24 billion in real cuts plus whatever we save on interest—$1.6 billion is estimated here, and with no tax increase, and so it is more cuts, more real savings. We could go back and do the asset sales any time and pick up the odds and ends and pieces of it.

Mr. President, we are urged to vote for this because this agreement proves that we can govern. It proves—in fact, I wrote this down during the course of the debate tonight. Somebody got up and said that we have to vote for this because, "If we do not, it shows that we cannot come to an agreement."

Well, in my opinion we are implementing an agreement that is the product of a charade. It is not a bold, courageous stroke. It is not increasing the measures of deficit reduction. It is backing away from it. It does not constitute an appeal to the best instincts of our country. It is not saying to the people of America we are going to solve this problem by meeting it head on. This reconciliation measure, in my opinion, is exactly the opposite of what it has been portrayed to be. It is in truth a copout and it deserves to be defeated.

Mr. STEVENS. Mr. President, as a conferee from the Committee on Government Affairs, I have signed this conference report with some reluctance. I want to state clearly for the record that I signed this agreement only because I am committed to seeing the Budget Summit Agreement enacted into law.

I do not approve of the way this conference agreement affects the U.S. Postal Service. This conference agreement requires the U.S. Postal Service to absorb 73 percent of the $1.7 billion in savings the Government Affairs Committee was asked by the Leadership to develop in the fiscal years 1988 and 1989. These cuts, $510 million in fiscal year 1988 and $735 million in fiscal year 1989, come from the U.S. Postal Service operating and construction budget.

My colleagues will recall that the Summit Agreement suggested reforms in the "Federal Personnel" System. However, 73 percent of the money saved in this conference agreement has little to do with "Federal Personnel." Instead, it contains $1.2 billion in Postal Service reductions over the next 2 years, primarily in postal construction costs. Specifically, the conference language will defer for 1 year 65 percent of the Postal Service capital improvement program, reducing capital outlays by $350 million in fiscal year 1988 and $465 million in fiscal year 1989.

Mr. President, these postal facilities are urgently needed throughout the Nation. They are needed to continue the Postal Service's congressionally mandated program of improvement in productivity which is intended to make the Postal Service more efficient and less costly to those who use the U.S. mail. These deferrals of construction and capital expenditure projects simply postpone, but do not eliminate, the need for these expenditures.

New postal capital spending projects all across the country have already been frozen, and nearly every one that was scheduled to start during the remainder of this year, and some more in 1989, are not going to get off the ground before 1990 at the earliest. In virtually every State, wherever a new or modernized post office building is most sorely needed, the local people and community leaders who have fought for years to get the necessary approvals and funding are going to discover overnight that the fruits of their efforts have been snatched from their hands at the last minute.

These capital investment deferrals and cutbacks in postal services do not get at the real, permanent deficit problem in this country. Over the long-term our postal services pay for themselves, if we do not destroy the quality of the service which our people feel they have a right to expect.

These delays will have a direct effect on the economic well-being of many areas of this Nation, especially those areas of the Nation that are experiencing rapid growth.

Mail service will suffer, and the pain to our constituents will be real. We do not know exactly where or how the pain will develop, but we are going to know, and soon, and so will our constituents. The postal system is the one Federal service that everybody in this country uses first hand and on a regular basis. The American people know when the system works and when it does not. They know what they are getting for their postage dollar. Today, people are generally satisfied that they get good value for their postal dollar, according to most independent surveys. Tomorrow, their reaction will be far different.

The 25-cent stamp is already in the cards. A revenue increase will arrive as early as spring. People are going to be paying more and getting less.

Mr. President, my colleagues should be aware that one unique feature of this agreement allows the fiscal year 1989 savings of $465 million resulting from deferred Postal Service capital expenditures to be put into a separate account, an escrow account if you will, that can be used by the Postal Service in 1990. Now let's be realistic. In 1990, Gramm-Rudman-Hollings requires that the deficit be no more than $100 billion—down from $144 billion this year and $136 billion in fiscal year 1989. This means that the Government Affairs Committee will be required to make even further reductions in its area of authorization for fiscal year 1990. Ironically, this $465 million sitting in an escrow account will then be scored as Postal Service spending in fiscal year 1990.

In short, not only will we have to reduce the Federal deficit by another $36 billion for 1990, but our mission will be complicated by the deferred $465 million in additional capital construction funds which will appear in 1990. Realistically, what will happen is that the $465 million, if it is used as it is intended, for Postal Service construction projects, will make the possibility of meeting deficit reduction goals in 1989 much more difficult. If that news were not bad enough, Postal Service operating budgets will be cut by $160 million in fiscal year 1988 and $270 million in fiscal year 1989. This will directly affect the Postal Service's ability to provide the service the public expects and deserves.

Mr. President, Senate conferees were in the position of having no choice but to approve the postal cutbacks which are part of this bill. We all know that we have to have a budget bill to show the world we can deal with the Federal deficit situation. But the process has been structured so that a big chunk of the budget reduction is going to be taken out of the Nation's mail system during the remainder of this year and the next. Over the past week, the Government Affairs Committee and the Senate have simply not been given the room to look for more sensible alternatives. Committee conferees

have succeeded only in reducing the size of the damage being done from some $1.7 billion to just under $1.25 billion. But Senators should make no mistake about the consequences of this decision.

Mr. President, I want to make it clear that my strong reservations about the conference report in no way reflect discredit on the conferees; they had an almost impossible task. I specifically want to express my appreciation to Chairman BILL FORD and his colleagues, GENE TAYLOR, FRANK HORTON and MICKEY LELAND, for getting the best possible compromise for the Postal Service that could have been agreed to. Senator JOHN GLENN and Senator DAVID PRYOR also looked at various options. But because of budget scoring problems, committee conferees were in such a box that we had very little room to be innovative in the way we could save taxpayer's money.

I hope that we can institute a better process than the process which we faced over the weekened. Happily, next session the Senate Rules Committee will be looking further into possible ways to improve the operation of the Senate and its committee structure. Hopefully, we will not be in the same position in 1989 that we were in this last weekend.

Mr. CHAFEE. Mr. President, the reconciliation conference report before us addresses many troubling health care issues in both the Medicare and Medicaid programs. The original House and Senate reconciliation packages contained very substantial differences in their Medicare and Medicaid provisions. The agreement before us represents compromise by both the Senate and the House, but I believe it represents better health care policy than either of the original bills.

This was not an easy conference. My colleague from Maine, Senator MITCHELL, and I spent many hours with the House conferees on Medicare and Medicaid issues working to resolve significant differences between the two bills. I would like to commend my colleague for the tremendous job he did in representing the Senate in this Conference and his splended ability to arrive at a reasonable and fair compromise.

Many of the changes in the Medicare and Medicaid Program included in this conference report will reduce the deficit, but overall I believe that we were also able to balance most of the spending reductions with good health care policy.

I would like to describe some of the changes which are included in this bill which will help those in need of better or more comprehensive health care services.

Even though we were instructed to reduce spending, we were able tin some instances to increase very important programs, especially those dealing with the poor.

The bill includes numerous provisions which will address the needs of the elderly. These provisions will improve the care nursing home residents receive. The amendments will go a long way toward ensuring that elderly individuals have a good quality of life and receive high quality medical care in their twilight years. In addition, we increased the amount of money that those living in a nursing home can keep each month. We also established a National Commission on Long Term Care.

We made a number of changes in the Medicare home health benefit which will assist in alleviating many of the ambiguities and problems home health care providers face that is district nurses for example—in attempting to receive reimbursement from Medicare for the services that they provide to the elderly.

In a further effort to improve home health care services for the elderly, the conference adopted a provision I proposed to allow demonstration projects designed to improve the delivery of health care services to Medicare beneficiaries outside of institutional settings. This provision will help fill the gaps in home health care for the elderly by providing a predetermined payment to community nursing organizations. This is designed to provide the services Medicare beneficiaries need to fully recover from an illness. Community nursing organizations will also help more Medicare beneficiaries live independently longer, by providing in-home assistance to help prevent institutionalization.

We also addressed the health care problems children face. And I would like to draw the Senate's attention to this provision. This package includes another small step forward in improving the health care services for young children, infants and pregnant women. This continues our efforts over the last 5 years to ensure that our health care system provides access for the very poor—especially children. The provision we adopted includes expanding the Medicaid Program to cover pregnant women and infants who are between 100 percent and 185 percent of poverty. These families are the so-called working poor.

The great gap in our Medicaid Program is that it stops when you reach a certain poverty level. Then if you should go to work and rise above the proverty level, even though you work for a firm that provides no medical coverage at all, you lose your medical coverage under Medicaid. And that is an understable barrier that poor women face in deciding whether or not to take a job. Why take a job if you lose the Medicaid coverage not only for yourself—maybe you can take that—but when you lose it for your children as well?

So what we are trying to do is encourage individuals on welfare to break out of these throes and become independent, but we have to help them in the initial steps, encourage them to take a job and in the meantime provide them some medical coverage for their children and themselves.

This is a critical first step toward recognizing the need to create a health care system which will include those who are working, but have a limited income and are uncovered through their employment. It is also a component of a bill I introduced earlier this year called MedAmerica.

We also attempted to address some of the problems individuals with disabilities face in the Medicare Program. The conference report includes a provision I advocated which will eliminate disincentives to work for those with disabilities.

Let us take an example. You have an individual who is qualified for SSDI and Medicare. What we did was provide a permanent extended eligibility if the individual has to discontinue work for the same disability. Let us take somebody with multiple sclerosis. Let us say they qualify for Medicare. Then the multiple sclerosis goes into remission. The individual goes out to work. And then after a couple of years the MS comes back again and further afflicts them.

Under the current law, they cannot go back onto Medicare for the same disability without an extended waiting period. What we did in this bill is say they can go back onto Medicare without the normal waiting period and thus we encourage them to take a chance when in this instance the multiple sclerosis goes into remission. The individual will say, "I will go to work. I know I will not lose my Medicare if I get sick again. I can go back immediately onto Medicare. So I will take a chance. I will go to work." That is the best thing of all for the individual and for our society as a whole.

For any individual, with a disability who has qualified for SSDI and Medicare, it provides permanent extended eligibility if the individual has to discontinue work for reasons of the same disability. This provision is of special concern to those with disabilities such as multiple sclerosis who may be able to return to work for an extended period of time, but always face the threat that their disability could deteriorate to a point where working becomes impossible. At that point, if they are not able to get back on Medicare without the normal 2-year waiting period, they face enormous financial and health care problems.

We also made some technical changes in Medicaid to address some problems which are simply wrong

under current law. For example, we adopted a provision which allows infants to be included under their mother's Medicaid coverage to avoid the tragedy of an infant being refused medical treatment simply because his Medicaid eligibility has not yet been processed.

This is possible as the law exists now unless this conference report is adopted. The child is refused treatment because his medical eligibility has not yet been processed.

Another example is a change we made in the law to fix a problem in the Katie Beckett waiver program which was excluding eligible children from the program.

This package also contains spending reductions in the Medicare Program. The cost of the Medicare Program is still increasing at an unacceptable rate, and we all rocognize that. And we will continue to look at how the program can be changed to show these increases down. However, these changes must be based on good health care policy decisions. We made a strong effort to ensure that the final changes in the program are fair and represent good health care policy. I believe we were successful.

One of the most troubling problems addressed in the conference report involves the increase in payments to hospitals. The prospective payment system established a single rate of payment for hospitals based upon the illness to be treated—the DRG rate. When we developed that system, we knew that fine tuning would be necessary. The conference agreement addresses many of the concerns about the differences between urban, rural and inner city hospitals. Under this agreement, inner-city hospitals will receive a 1.5-percent increase, urban hospitals will receive a 1-percent increase and rural hospitals will receive a 3-percent increase.

To reflect the concerns raised by hospitals in the mid-western and New England regions, this agreement slows down the transition to national rates for 3 years. This will mean a 0.4-percent update for hospitals in these regions which have higher costs, especially energy costs, than other areas of the country.

Another difficult issue addressed by the conference was physician reimbursement under the Medicare Program. The conference report reflects the very strong feelings that the House conferees had regarding physician payments. They strongly believed that it was necessary to retain a difference in the increase in reimbursement between those who will accept what Medicare will pay as payment in full and those who wish to charge beneficiaries more than that amount. We agreed to retain a small differential.

More importantly, we included in this package a substantially larger increase for what are called primary services—office visits, emergency room visits and nursing home visits. This is an issue I feel strongly about—this will encourage cognitive services—the doctor talking with his patient—rather than highly technical services.

I believe the agreement we reached with the House is a reasonable compromise and good policy. It will save the Federal Government money, control beneficiary out-of-pocket costs and allow physicians to increase their charges at a reasonable rate.

We also included two demonstration projects on preventive services. The first was to provide therapeutic shoes for diabetics and the second was to provide for influenza shots. It is my hope that these two projects will show once and for all that an ounce of prevention is worth a pound of cure.

This is a good agreement and I urge my colleagues to join me in supporting it.

The PRESIDING OFFICER (Mr. ADAMS). Who seeks recognition?

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I want to make a few remarks about this bill tonight. I will try to be brief. I think at this late hour in the session everybody has made up their mind on one thing; that is, they want to go home for Christmas. If this bill being adopted contributes to that then I am sure if anybody is on the margin, that is going to sway them in the direction of supporting it. But lest we be too covered with tears about the harsh spending reductions in this bill, I would like to just remind people of a couple of salient facts.

First of all, despite all the talk about cutting spending, one looks in vain for true spending cuts in this bill. In fact, I think it is interesting to look at what we are spending under this reconciliation and under the continuing resolution in fiscal year 1988, compared to what we spent last year. If you look at those figures, you find that under this budget compromise Federal spending rises by 4.5 percent over the level we spent last year. In fact, there is not a major component of the budget that is actually cut under the terms of this agreement. Defense, in outlays, rises by 1.1 percent. Nondefense discretionary spending rises by 4.1 percent, and mandatory programs and entitlements rise by 7.9 percent.

I think it is instructive, in looking at the 4.5-percent increase in spending, to note the fact that last year spending grew by 1.2 percent. With all the pressure of the automatic cuts under the Gramm-Rudman-Hollings law and despite all the concern about the collapse in equity values on the stock market, we, in this compromise, are increasing spending 3.7 times as fast as it grew last year.

That was the agreement as it was written right out here in the hallways of the Capitol that was the agreement that was made between the White House and the leadership. I think that it is important to note, however, that this reconciliation package in very serious ways does not live up to that agreement. This plan for example, scores $1 billion in Medicare savings by using a higher baseline than was established in those agreements.

In fact, as the distinguished Senator from Rhode Island has just pointed out, what this agreement does—and we now have done it several years in a row—is start with a very high baseline for Medicare growth. We do not reimburse the providers at that rate of growth, we claim savings, and then we add new benefits that will spend out in the outyears and have the effect of actually raising Medicare spending.

That is what we have done here. We have done other things, like delay certain payments by 10 days in 1988 and by 14 days in 1989. Rather than having the Post Office actually cut expenditures, we have them delay 60 percent of their capital expenditures—that is, defer them—in fiscal 1988, into the future.

I would like to sum up by saying that we are going to face the same problem next year. I hope that the economy will be strong and that our task in the election year will not be difficult. But if in fact many of these savings do not turn out to be real, if in fact they do not spill over into the outyear, then we are going to be facing in an election year further necessary actions to reduce the deficit.

Finally, it would not be fair if I did not point out one fact that I think we ought to recognize if we want to try to find a silver lining in this agreement. I have gone back and looked at the last 11 election years; and, on average, in those last 11 election years, Federal spending has grown, under Democrats and Republicans, by 11.2 percent.

If, in fact, we can live up to the spending restraint commitment for fiscal year 1989, which is simply set out as a guideline in this bill and not legislated, we will be controlling the growth of spending at roughly a 4.5-percent rate, and that would be a dramatic improvement in an election year. I, for one, hope we can do that. I will vigorously oppose any supplemental appropriation bill that violates this agreement. I hope the President will veto any supplemental that violates this agreement.

I think this is a very marginal deal. It was not a deal that was meant to appeal to me or to garner my vote. It is a deal, however, that achieves more than would have happened in the absence of either Gramm-Rudman-Hollings or this agreement.

Whether or not we would be better off with the $23 billion in across-the-board cuts, I do not know. I do not know to what extent they would stand up. I do not know to what extent they would be undermined by the President and by Congress, through supplemental appropriations. But with this deal in place, I think it is vitally important that we try to enforce it.

I, for one, am very concerned that we have seen quite a bit of slippage between the agreement made by Congress and the White House and the package before us. I hope we will not see further slippage over the next few years. If we do, we will lose the positive things contained in the agreement, and the negative things will still be there.

[The following proceedings occurred after midnight.]

Mr. DOMENICI. Mr. President, I understood that the distinguished minority leader wanted to make a statement.

Mr. DOLE. Mr. President, I will just take a moment, because I know we are going to vote. We will be here all night, anyway, so it does not make any difference how long we take on this. We will have to wait until 4 or 5 o'clock for the continuing resolution to come from the House. Maybe we could recess for a few hours.

I have listened to the arguments pro and con on this package, and maybe they are all correct. All I know is that there has been a great deal of effort expended by a great many people on both sides of the aisle, in both Houses, for a matter of about 30 days, and I think we missed a great opportunity.

I think that after the October 19 stock market crash, we had a 10-day opportunity, or a 10-day window, to make a bold move, but it did not happen.

A lot of us had a lot of ideas, including the distinguished Senator from New Mexico and the distinguished Senator from Louisiana and others, and they gave everybody a lot of opportunities to go for the bold play, but it did not happen. We could not reach a consensus.

In the final analysis, we ended up with this package, over a 1,000 pages, probably 10 or 12 pounds, and a lot of work and a lot of effort and a lot of things that probably should not be in the package.

Maybe some other Senator can put it together, probably not precisely the same package. It is easy to find fault with a number of things in this package. But, overall I think we did establish one thing: That the Democrats and the Republicans could work together, that the President of the United States could work with Congress, the Democrats and the Republicans, as he did.

I think that, in itself, should indicate that we can govern when necessary—maybe not the way some would like. But, in the final analysis, we demonstrated—maybe not in the way we should have or as large as we should have—but I do believe we send a signal, with our affirmative vote for this conference report, that will be heard around the country and on Wall Street and maybe around the world. So I hope we will support this effort.

The leadership on both sides of the aisle, in the Senate and in the House, appointed Members to represent us. No one is bound, of course, by the agreements they reach, but I certainly commend all of them. I think they have made every effort they could.

I commend the majority leader for sticking with the agreement. Time after time, we have met in his office the past few days, and he said time after time, "I'm going to stick with the agreement."

We have not had much difficulty at all on the Senate side. There has been some difficulty, but not much. There has been more in the other body.

So I congratulate all those who have been players in this effort—Republicans and Democrats, Members of the House and Members of the Senate.

I hope that the President will sign this bill. I understand that he will. There are a couple of items that the President does not like, a couple of items that probably should be changed. They are both controversial, and you can read into each argument your particular point of view.

Mr. President, I intend to support this conference report. I hope that my colleagues on both sides of the aisle will vote to give a strong indication that they support the efforts of a lot of Members here who have spent a lot of time putting together a pretty good package—not as good as we would like, but the best we can get.

Mr. EXON. Mr. President, will the minority leader yield for a question?

Mr. DOLE. I am happy to yield.

Mr. EXON. Mr. President, I heard the minority leader yesterday indicate that there was a request on his side of the aisle for a rollcall vote on the continuing resolution. As I understand it now that is scheduled to follow this sometime around 4 or 5, maybe 6 o'clock in the morning.

Is that the information that the minority leader has?

Mr. DOLE. That is correct.

Mr. EXON. Just as a matter of information for this Senator, is there still going to be a rollcall vote requested on the continuing resolution as far as the minority leader is concerned? I have not checked with the majority leader on the floor. As far as the minority leader is concerned there is still that request for a rollcall vote on the continuing resolution.

Mr. DOLE. Unless that Senator should doze off somewhere and not be able to be located.

Mr. EXON. If the Senator could name him maybe we could see that he did go off somewhere.

Mr. DOLE. No. Doze off, go to sleep. Anyway, he is here and wide awake and alert. He said he would be that way at 5 o'clock. I assume there will be a rollcall vote.

The PRESIDING OFFICER. The Senator for New Mexcio.

Mr. DOMENICI. On our side I see the senior Senator from Nevada on the floor. Did he desire to speak on this?

Mr. HECHT. I thank the distinguished Senator from New Mexico. I wish to speak no more than 3 minutes.

Mr. DOMENICI. As much as he would like. I wanted to remark for about 3 minutes myself and I think we are finished. There is no one else asking on our side and Senator CHILES has a wrapup.

Mr. DOLE. They are starting to wake up.

Mr. DOMENICI. We are going to yield to the Senator and vote after that.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 3 minutes. Is that what he wishes?

Mr. HECHT. Thank you, Mr. President, probably 3 minutes, no more than 4 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. HECHT. Mr. President, as all my colleagues know, I am opposed to the bargain struck by the conferees on nuclear waste. I am opposed to deep geologic disposal of unreprocessed spent nuclear fuel. Deep geologic disposal is wrong. It has not been proven safe, and it will be terribly expensive. I am therefore opposed to a deep geologic repository being built in Nevada, or anywhere else. Instead, we should reprocess and recycle nuclear waste, and burn it as energy.

Realizing early in the legislative process that any legislation passing this Congress would narrow the choice and target Nevada, I worked diligently to amend the bill and protect Nevada's interest. I succeeded in amending this nuclear waste legislation 17 times as it passed through the Senate. As a result, the bill, although still unacceptable, is much better for Nevada and for the Nation as a whole. This compromise legislation that is now before us has retained 12 of the Hecht amendments.

Mr. President, these are good amendments. The conference report targets Nevada and I don't think that's fair. But, if Nevada is going to be targeted, then I think it should be protected as much as possible. That's what I have attempted to do with these amendments, and my fight will not stop here.

As I've said before, burying nuclear waste is wrong. Reprocessing it is

right. If I'm beginning to sound like a broken record on this subject, then my colleagues better get used to it. I am just getting started.

Mr. President, I yield the floor.

Mr. HEFLIN. Mr. President, I rise today to discuss the revenue provisions in the Budget Reconciliation Act of 1987. Both what is in the bill and what was left out of the bill causes me grave concern. First the sheer volume of the tax increase is staggering. This bill raises $9 billion in new taxes during 1988 alone. This is one of the largest single year tax increases since World War II. Some argue such a tax increase is the only way to balance the Federal budget. I disagree. The alternative to increasing taxes to balance the budget is to cut spending. Reducing Federal spending is a better way to balance the budget than raising taxes. Our Government has not incurred this massive debt because our citizens are undertaxed; it is because the Government overspends. Congress and the administration must learn to live within our means.

As I reviewed the tax portions of the budget reconciliation, I remember two principles from my courtroom days: nonfeasance and malfeasance. In short, nonfeasance is leaving undone those things which you ought to have done, and malfeasance is doing those things which you ought not to have done. The budget reconciliation bill contains examples of both.

Mr. President, I feel the budget reconciliation bill should have addressed problems of associated with the formation of capital. The most pressing problem is the removal of preferential treatment for capital gains. While I am not in favor on addressing every national need through the Tax Code, a long term capital gains differential must be reinstated. Tax law prior to the 1986 act allowed taxpayers to exclude from income 60 percent of the gain upon the disposition of a long term capital asset. This provided an incentive for Americans to make an investment and then hold on to that investment. This has the twin benefits of promoting capital formation, thus providing the basis for new economic growth, and reducing volatility in the marketplace. At a juncture where our Nation has one of the lowest savings rates of any industrialized country and is facing economic volatility so great that it threatens our entire national economy, we must restore the incentive to save and invest.

The areas in which the need for tax incentives to invest are the greatest are those which are subject to the biological process. Manufacturers have control over their costs of production and their sales price while service workers can control the quality of their services and the quantity they provide. Farmers and foresters have no similar control over the factor which most controls their production: the weather. I have already tried to eduate my colleagues about moondogs and blackbirds in December; some may even remember what a welcome sight sundogs can be to a drought-striken farmer. These things can help a farmer predict the weather, but by no means do they allow him to control it. Farming and timber growing continue to be risky business.

Congress needs to encourage continued investment by our food. fiber, and timber producers. The best way to encourage this is by providing a capital gains differential for timber, an investment tax credit for farm equipment, the accelerated cost recovery system for farming and income averaging for farmers. Without these tax incentives, America could find her strong agricultural base eroding. We must not allow this to happen.

Mr. President, another item which the budget reconciliation bill should have included is the Technical Corrections Act. There are too many important provisions in technical corrections to let the bill drop by the wayside. This bill was ready for consideration more than a year ago and Congress has yet to enact it into law. There is no excuse for such delay. The technical corrections bill will address and hopefully solve a vast number of flaws in the Tax Reform Act of 1986.

One group which would have been helped by passage of the technical corrections bill is professional authors and photographers. The Tax Reform Act of 1986 adopted uniform capitalization rules for costs of "producing tangible personal property." Capitalizing such costs generally is appropriate in matching such expenses with related income items. However, a footnote added to the conference report expanded the new capitalization requirement to professional freelance authors, even though the matter was not addressed in the statute or during floor debate. Under this new requirement, authors will be required to allocate every expense they incur among each of their pending projects and then amortize such costs over the projected life of the projects. Thus, authors who are researching and writing books could not deduct their expenses for that book against income from other writing projects.

The required allocations and projections of useful lives for each project will be far more complex and uncertain than even the capitalization requirements applicable to manufacturers. The new capitalization requirements for authors will essentially represent pure guesswork.

Since authors on the whole have modest earnings and little sophistication in tax and accounting procedures, the burden placed upon them by this provision will far outweigh any benefit this provision may have to the Treasury. It is time Congress repealed the capitalization rules as they apply to professional authors.

Another group which would have benefited from the enactment of the technical corrections bill is graduate students. An inconsistency exists between section 117, which taxes tuition remission scholarships, provided to graduate teaching and research assistants, and section 127(c)(8), which would exclude such amounts from taxation. Congress needs to clarify its intent to provide tax exempt treatment of tuition remission scholarships under section 127.

Another issue which needs to be addressed is the treatment of certain deferred compensation plans of tax exempt employers. The IRS, in Notice 87-13, took an overbroad position that the types and nature of deferred compensation plans governed by section 457 include nonelective deferred benefit plans which Congress actually intended to be outside the scope of section 457 rules. Congress must clarify its position on this matter in the near future.

Next, Mr. President, I would like to discuss some of the provisions which were included but which should not have been included.

First, there is the problem of freezing certain tax rates. Recently, the Senate overwhelmingly rejected a proposal to freeze the income tax rates at 1987 levels. This indicates a widespread belief that once Congress tells American taxpayers their tax rates are going to drop at some point in the future, Congress should live up to this promise.

Several years ago, Congress enacted an excise tax of 3 percent on the use of telephones. This excise tax was scheduled to decrease to 2 percent and then to 1 percent and then be eliminated completely. However, Congress has repeatedly extended the tax rate at 3 percent. In this bill, Congress is again extending the 3-percent excise tax.

The second example is an extension of the FUTA tax. In 1976, Congress enacted a temporary 0.2-percent rate increase to the Federal unemployment tax. This temporary additional rate was added to repay the borrowings of the Federal Unemployment Trust Fund from the general fund of the Treasury during the mid-1970's. The outstanding indebtedness was repaid during 1987, and the additional tax was scheduled to terminate at the end of the year. However, even though the debt has been repaid, Congress is about to extend this so-called temporary 0.2-percent additional FUTA tax rate for 3 years, through 1990. This is a mistake. Business accepted the additional tax in order to pay back money borrowed by the Federal Unemployment Trust Fund during the period of

high unemployment of the mid and late 1970's. The crisis of high unemployment rates is over—at least for the time being—and the debt has been repaid. Congress should live up to its promise to repeal this tax once the debt has been repaid.

The next item is a freeze on the estate tax rate. The highest marginal tax rate on estates is currently 55 percent. This rate was scheduled to drop to 50 percent at the end of this year. However, in this bill, Congress will extend the 55-percent tax rate for 5 more years. In itself, this freeze in the tax rate is undesirable. However, when one considers that the top marginal tax rate on estates was supposed to drop to 50 percent at the end of 1985, but was temporarily extended for 2 years, this new extension of the tax rate becomes even more ominous. This will mean that the drop in the top bracket will have been delayed for 7 years. One can see that the top margin tax rate on estates will most likely never reach the 50-percent level.

There is another concept of a freeze in the estate planning area which has nothing to do with the tax rates. Rather, this refers to a technique by which taxpayers can freeze the value of an estate at some point prior to the death of the testator. The provision contained in the budget reconciliation bill is extremely vague, so vague that it is having a chilling effect among estate planners. There are numerous questions which this provision raises but does not answer. For example, what if property is sold before death? Are the proceeds tainted? Will the estate have to include the value of assets not owned by the decedent on the date of death in the valuation of the estate? Mr. President, the Finance Committee is leaving too many questions to the regulation writers rather than answering these questions in the legislation.

Other provisions I object to are the limitations on the deductibility of interest on qualified residences. Under this bill, homeowners will not be able to deduct interest paid on the amount of a loan which exceeds $1 million for primary mortgages or $100,000 on home equity loans. While the caps are generous, the fact that these provisions are included at all, causes concern. This is the camel's nose under the tent. In the next few years Congress will need to raise additional revenues. It will be far too easy to look to these provisions and, bit-by-bit, lower both of these caps. Within a short period of time, we could see the limitation on primary mortgages drop from $1 milion to $500,000 to $250,000 and then simply disappear. The Senate extensively debated this matter during the Tax Reform Act of 1986 and determined that interest payments on first and second mortgages on first and second homes should remain fully deductible. This is the first step to repealing these provisions. Congress should not even take the first step down this path.

Another provision to which I object is the reduction in the dividends received deduction. This provision increases the cost of captial to American business. Businesses will have to pay higher returns to their business investors to offset the increased "partial triple tax." This makes little sense when we should be focusing on helping business be more competitive in international trade. Also, by eliminating flexible financing instruments which fall between pure common stock, pure preferred stock and pure preferred debt, we put businesses in a straitjacket, instead of allowing them to develop methods of raising funds which are tailored to their needs and those of their investors. Why should hybrid financial instruments which companies have designed to attract investors, using some of the benefits of both stock and debt in different combinations, be eliminated because they do not fit simplistic tax compartments? There is no reason, Mr. President.

This provision will cause hardship to many corporations in America, but will particularly affect the industries which rely heavily on preferred stocks. One such industry is the utility industry. Their predominant reliance on preferred stock means that their cost of capital will increase dramatically. This means that the utilities will have to pay more to their investors. This in turn means that telephone, gas, and electric rates will rise.

Another major user of preferred stocks is the savings and loan industry. Almost a third of this industry is hard pressed today. It does not make sense to increase their cost of capital only a few months after Congress passed a multibillion dollar S&L bailout bill.

Another provision of concern is the expansion of the empoyer's share of the FICA tax to include all cash tips. This will cause an unreasonable and disproportionate tax burden to be placed upon restaurant owners and others who have employees who receive a large amount of tip income.

The flat 34-percent tax rate on personal service corporations is also objectionable. This change is at variance from well established tax policy. Almost from the inception of the personal income tax, we have had increasing marginal tax rates. There is a very good reason for using graduated marginal tax rates. People and businesses with higher net incomes are better able to pay higher taxes. There are no sound tax policy reasons to treat personal service corporations any different than other corporations or individuals by denying them the use of graduated tax rates.

Mr. President, I am also concerned over the treatment of publicly traded partnerships. I strongly disagree with the provision in this bill concerning the treatment of publicly traded partnerships under the passive loss rule. The Tax Reform Act of 1986 dealt harshly with real estate. Any further burden on real estate could depress the entire industry.

Mr. President, I would like to take this opportunity to congratulate Senator BENTSEN on his work in conference on several other provisions. A provision I am delighted to see included in the bill is the modification to the calendar year conformity requirement of the Tax Reform Act of 1986. The provision is drafted to be revenue neutral. Therefore, Congress has every reason to modify the calendar year conformity requirements and no reason not to do so.

On several occasions throughout this year I brought the problems associated with the calendar year conformity requirements to the attention of my colleagues. Only 2 days ago I again described the havoc failure to modify the calendar year conformity requirements would wreak on tax preparers such as CPA's, bank trust departments, and tax attorneys. In this speech I called for the conferees to include this provision in the conference report, I am glad they have decided to do so. Although this provision is not the outright repeal of the calendar year conformity requirements I would have preferred to see, I am still very pleased to see the provision adopted.

I must thank the chairman of the Senate Finance Committee, Senator BENTSEN, and Senator BAUCUS for their fine efforts in adopting this provision.

I would also like to recognize the conferees for addressing the problem of "phantom fund income," which plagues mutual funds and those who invest in them. Before enactment of the Tax Reform Act of 1986, which was supposed to bring us tax simplification, figuring a mutual fund shareholder's taxable income was simple; it was whatever the fund actually paid the shareholder. However, the 1986 act has caused several problems for mutual funds by restricting deductions for miscellaneous items such as investment advice. In order to prevent taxpayers from circumventing the restriction on tax advice by investing in mutual funds, the 1986 act required mutual funds to include in amounts attributed to shareholders an amount equal to the shareholder's pro rata share of the fund's investment-advice expense.

This means the funds must report a portion of their expenses as if the mutual funds had actually paid them and the shareholders must report this amount as if they had actually re-

ceived them. This, in turn, means the shareholders must include this amount in taxable income. Thus, taxpayers must pay taxes on money they have never received. People cannot use this money to buy groceries or medicine, or educate their children, or heat their homes. The only thing this income is good for is to pay taxes on.

The phantom income problem was bound to cause confusion and error come tax time and impose an unnecessary burden on mutual funds. By addressing this problem in a revenue neutral manner, the conferees have eliminated a great problem.

Also, by insisting on the Senate position on some other matters, the Senate conferees greatly improved this bill over the House version. I am particularly glad to see that the provisions regarding the amortization of customer base intangibles, cafeteria plans, like-kind exchanges, and corporate acquisition indebtedness were dropped. Furthermore, I am very pleased that the House proposal to change the unrelated business tax on 501(c)(6) organizations was deleted. Likewise, dropping the House proposals to change the alternate minimum tax for corporations improved the bill.

Thank you, Mr. President.

Mr. JOHNSTON. Mr. President, the conferees on the budget reconciliation bill have reached an agreement that will redirect the Nation's program for the management of nuclear waste along the lines set out in S. 1668, the bill reported by the Committee on Energy and Natural Resources on September 1, 1987. Although this redirection is being enacted as part of title V of H.R. 3545, the budget reconciliation legislation for fiscal year 1988, the legislative history of the nuclear waste provisions is that of S. 1668.

This redirection will move the program forward, so that its goal of safe, permanent isolation of nuclear waste under Federal auspices can be achieved. There will be significant cost reductions—at least $4 billion.

The bulk of these savings will result from concentrating our efforts to develop a deep geologic repository on a single site, rather than on three sites as required under the Nuclear Waste Policy Act of 1982. S. 1668 provided for a selection of a preferred repository site by the Secretary of Energy by January 1, 1989 and a phasing out of site characterization activities at the remaining two sites. The conference agreement selects the Yucca Mountain site in Nevada as the preferred site and directs that siting activities in Texas and Washington State be phased out in an orderly manner and terminated within 90 days. While it is not specifically required by the agreement, it is my hope that DOE will report to Congress at the end of the 90-day period and provide an inventory of the work and contracts phased out at each of these sites and any nonsite specific activities that are planned to continue.

The House conferees insisted on the selection of the Nevada site by Congress in the compromise legislation. In the Senate, we had retained the process of selection by the Secretary of Energy based on scientific information gathered and analyzed by the Department of Energy [DOE] under the scrutiny of the Nuclear Regulatory Commission and the National Academy of Sciences. The House approach greatly simplifies this process. I believe that this simplification should render moot the litigation that currently challenges DOE's siting decisions in the Repository Program. S. 1668 contained a provision explicitly preserving pending litigation. This provision was dropped out by the conferees, however. Now that Congress has made the decisions to proceed with characterization of the Yucca Mountain site and to terminate the second repository program, I believe that the judicial review of the siting decisions in the first and second repository programs should no longer be necessary or appropriate.

The conference agreement also follows the policy set forth in S. 1668 in authorizing a monitored retrievable storage facility as an integral part of the Nation's nuclear waste management system. The MRS can be of great value to the system as a packaging and handling facility and as a source of backup storage capacity in the event that the first-of-a-kind process of developing a deep geologic repository takes longer than DOE anticipates in current planning documents. As a packaging and handling facility, the MRS allows the collection of spent fuel in the Eastern United States near the center of gravity of spent fuel production and shipment to the repository in Nevada by unit train. Spent nuclear fuel shipment miles will be reduced by about two-thirds in comparison with a no-MRS waste management system under which individual shipments from each reactor site in the East go directly to the repository.

As a source of backup storage capacity, the inclusion of the MRS in the national nuclear waste management system will result in a much more flexible system and will permit early hands-on experience with spent fuel management. Accepting spent fuel at an MRS will also mean that staff at DOE responsible for repository development will be able to concentrate on repository work in a way that is uncomplicated by waste acceptance issues.

The House conferees, it is fair to say, do not share the Senate's view of the value of the MRS to the Nation's nuclear waste management system. House conferees expressed deep concern that an MRS could become a substitute for the deep geologic repository itself. This has never been the intent of the Senate, as we have said many, many times. The MRS is a part—a very important part—of the Repository Program.

At the insistence of the House conferees, the compromise legislation contains several unfortunate and unneeded restrictions on the MRS. These restrictions will necessarily reduce somewhat the contribution to the program that the MRS will be permitted to make. I expect that the effect of these restrictions will be studied and evaluated objectively by the MRS Commission that is retained in the compromise from the Senate bill. The Commission should examine how the MRS can contribute to the waste management system both with and without the restrictions, so Congress will more fully appreciate the value of the MRS. In determining whether an MRS should be a part of the Nation's nuclear waste management system, the Commission should look at both the constrained and an unconstrained MRS. The expenditures of the MRS Commission will be paid for out of the nuclear waste fund.

One of the restrictions added at the insistence of the House conferees makes it so that DOE may not formally select an MRS site until after completion of site characterization of the Nevada site, at the time at which the Secretary of Energy recommends to the President a site for development as a repository. According to DOE's current schedule, that will result in formal site selection in 1994.

It is unfortunate, in my opinion, that the House conferees insisted upon delaying formal MRS site selection until the mid-1990's. However, the provisions of the conference agreement will allow the site survey and evaluation to proceed after June 1, 1989, the date for submission of the MRS Commission report. As part of that site survey and evaluation, DOE will be able to gain access to any of the sites surveyed in order to obtain data and information sufficient to support an MRS license application to the Nuclear Regulatory Commission. This provision of the agreeement will allow DOE to conduct the necessary site-specific work and to gather the essential site data prior to the formal selection and designation of an MRS site and, hence, minimize the time between the selection of a site and submission of a license application to NRC. Therefore, there should be no significant time lag between these two milestones.

One of the other restrictions added at the insistence of the House conferees, would prohibit continued construction of an MRS or acceptance of spent fuel at such a facility if a repository license is revoked by NRC or if construction of the repository is terminated. It should be understood, howev-

er, that revocation of the repository license or termination of repository construction is a high threshold. This restriction is not intended to allow suspension of MRS construction or acceptance of spent fuel simply because of a temporary interruption in repository construction. This restriction is intended to suspend MRS construction or acceptance of spent fuel only in the event that there is a serious threat to continued repository construction.

The specific statutory language of this provision is that MRS construction or acceptance of spent fuel at an MRS will be prohibited if repository construction ceases. It is useful to note that the definition of cease is discontinue or put to an end. Cease does not mean to suspend or halt temporarily. Therefore, it should be clear that this restriction of MRS construction or operation should only be invoked in the event that there is a permanent end to repository construction.

The conference agreement also follows the policy set forth in S. 1668 relating to benefits for a State hosting a repository or MRS. S. 1668 provided for benefits agreements between DOE and a host State, by which the State would receive up to $100 million per year for hosting a repository and up to $50 million per year for hosting an MRS. In order to receive those benefits, the host State would have to waive its right to veto the siting of the facility.

The amount of money available to a host State was reduced substantially in the conference agreement at the insistence of the House conferees. The process, however, remains the same. In order to receive the benefits under such an agreement, the host State must waive its veto. The conferees agreed that benefits to a host State are appropriate, but it must be a cooperative effort if such vast resources are to be given as unrestricted benefits.

Finally, the conferees agreed to include provisions offered by the House to appoint a negotiator to negotiate the terms and conditions under which a State or Indian tribe would be willing to host a repository or MRS, in lieu of the benefits provided under a benefits agreement. The negotiator's efforts are independent of, and would proceed in parallel with, DOE's efforts to site a repository in Nevada and an MRS facility. Any agreement worked out by the negotiator would have to be enacted into law by Congress. Although it is not explicitly provided in the conference agreement, it is my belief that a negotiated agreement enacted into law by Congress would have to contain additional assurances that there would be a cooperative effort between the State and DOE toward siting a repository or MRS. I would assume that this would include the dropping of any pending litigation brought by the State against DOE.

In spite of my concerns about these unnecessary restrictions on the MRS, I am pleased that agreement has been reached. Agreement on this nuclear waste legislation is a major accomplishment. This redirection will move the nuclear waste program forward and allow significant cost reductions. This agreement is the result of an entire year's effort on the part of many people. In that regard, let me especially thank my colleague from Idaho and ranking minority member on the Energy and Natural Resources Committee, Senator McCLURE, for his tireless efforts toward this end.

Mr. HEFLIN. Mr. President, the Agriculture Committee of the Senate and House were charged by the budget summit with the task of cutting $2.5 billion over the next 2 fiscal years from overall program outlays. This process of budget cuts in the Agriculture Committee was particularly difficult. These cuts meant cutting actual farm income provided to individual farmers. No crop, or region was left untouched by this process. While I do believe that this process was an equitable and balanced cut of all program expenditures; nevertheless, in that I was not a conferee, I must express my displeasure for certain additions and deletions to the Senate budget package.

Mr. President, first, I was particularly disappointed that the Soybean—oilseeds—Marketing Loan Program was deleted from the agriculture title of this budget reconciliation package. I must express my dislike and lack of understanding of why this soybean marketing loan was stricken from the bill. This program would have had no significant effect on the budget and I believe it would have been of great help to Alabama and to the Nation's soybean farmers.

Yet, I understand that the administration was determined to kill this provision, in what I believe to be a protectionist move for the Brazilian and Argentine soybean farmers, as well as the New York bankers. Here, by striking this marketing loan for soybeans, the administration has been successful in their efforts to protect foreign soybean farmers and New York bankers. But I cannot fathom why the administration is more concerned with the interests of foreign farmers than it is with the well-being of American farmers. Time and time again, the administration has been, in my judgment, more interested in protecting our foreign competitors, than they are in protecting the livelihood of the U.S. soybean farmer and the U.S. soybean industry as a whole.

I believe the Congress has missed a valuable opportunity to get our Nation's priorities straight and place the American farmers before foreign farmers. In my opinion, the Congress has ignored the change to put the U.S. soybean industry on a competitive footing with foreign farmers for the first time in many years. I believe this program would have helped the United States to compete head to head with foreign producers and help regain the U.S. market share that has been lost over the past few years. Striking the soybean marketing loan from this bill was highly unwise.

Mr. President, the soybean marketing loan is a good program, with great possibilities. Everyone can be assured of my continued efforts on the behalf of Alabama's, as well as the Nation's, soybean farmers, to gain passage of a soybean marketing loan.

Mr. President, I am also aware that the Huckaby person-payment limitation provision is in this package. There is no doubt that any abuses relative to payment limits—no matter how large or small—must be addressed. But I must point out that the Secretary of Agriculture has the authority to correct many of these abuses. I believe the Secretary should use all of the authorities he currently has at his disposal to address these problems.

However, I am uncertain that the Huckaby provision is in the best interest of existing agriculture programs, such as the Cotton and Rice Marketing Loan Programs. There have been no hearings in the Senate on these provisions, and it is unclear of their effect on particpation in the current programs of acreage control. I believe the evidence indicates that the loan programs for cotton and rice have worked. I am hopeful that we will see continued program participation, and continued budget savings, as have been evident over the last year, as well as those savings projected by CBO for the next several years.

Mr. President, again, I would like to point out that this process has been a difficult one. And, looking toward the future, it is by no means over. These issues will be coming up again and again in the next months and years as we try to represent the best interests of the citizens of this Nation. But in this process, I, for one, will endeavor to see that the interests and well-being of our Nation's farmers and rural communities are protected and well-represented.

Thank you, Mr. President.

Mr. WILSON. Mr. President, let me state my opposition to increasing taxes so Congress can keep spending or increase spending, while professing to cut the deficit without making real spending cuts in lesser priority programs. Congress should lower spending, not raise taxes, in our effort to get Federal spending under control.

Just as important, it is clear that if the leadership's deficit reduction package based on the budget summit agree-

ment reached 3 weeks ago is designed to calm the fears of Wall Street or main street, it has failed miserably. Neither believes that this package actually will result in 30 billion dollars' worth of deficit reduction. Neither wants higher taxes; the American public wants the Congress to get Federal spending under control. As the Wall Street Journal noted after the package was announced, the "ho-hum in the markets may have been overly optimistic." Let's face it, Mr. President, America's financial community cannot believe that this package is the best that Congress has been able to produce after such protracted agonizing.

They are right, Mr. President, and that is the final reason that I oppose passage of this legislation. It simply won't work. A large portion of the package is based on the hope that the Federal Government will gain a one-time windfall of billions of dollars when it sells some of its assets. Asset sales do not represent true deficit reduction; they are a one-time, nonrecurring source of revenue—a nonsolution. Another $2 billion is to be accrued from yet another hope, that of better IRS enforcement. This at the time that nondefense discretionary spending will be reduced by $2.6 billion. Bloated farm programs, which make little sense to begin with, are cut by less than $1 billion.

Overall, Mr. President, this supposed budget deficit package will not do the job. It cuts spending in the wrong places, and depends on tax increases to do the job that the Congess is unwilling to perform—making carefully selected spending cuts. The Senate should not approve this legislation. We are deceiving ourselves—but not the American people.

Mr. MATSUNAGA. Mr. President, I rise as a member of the joint House-Senate conference committee on H.R. 3545, to commend the conferees on accepting the Senate provision to bring the Medicare outpatient mental health benefit up to date. I would also like to express my appreciation to the chairman of the Finance Committee, Senator BENTSEN, for his leadership on this issue.

The current $250 annual cap on outpatient mental health benefits has not been increased since Medicare was established in 1965. This amount in constant dollars buys only about 57 dollars' worth of care in 1987. Raising the cap to $1,100 takes into account the increase in health care costs over the past 22 years and should not be characterized as an expansion.

The provision also excludes from the cap brief office visits for the sole purpose of prescribing or monitoring prescription drugs used in the treatment of mental disorders. In addition, it codifies the partial hospitalization benefit, under which psychiatric patients can be treated in a hospital-based setting on an outpatient basis.

Recently, exciting new breakthroughs in the treatment of mental disorders have changed our understanding of mental disorders and have given us the ability to treat such disorders much more effectively. Access to these advances is largely denied to beneficiaries because of current Medicare limits. Medicare's inadequate coverage dissuades many beneficiaries from seeking mental health care when it is most timely and effective.

Most researchers agree that the mental health needs of elderly individuals are underserved. Between 15 and 25 percent of this population suffer from significant mental illness symptoms. As they lost spouses and loved ones, physical functioning, and meaningful work, they are placed at significant risk. This problem is compounded because these needs are often mistakenly treated as physical disorders.

Mr. President, I am heartened by the conferees' recognition of the importance of this Medicare benefit. As the sponsor of S. 718, a bill to eliminate the Medicare outpatient mental health cap, I recognize the budgetary constraints within which we must work. I believe this provision is an important step in meeting the unaddressed mental health needs of Medicare beneficiaries.

Mr. HECHT. Mr. President, I would like to point out to the Senator from Idaho that while I appreciate the fact the conferees on nuclear waste included 10 amendments that I offered in committee and on the floor in their conference report, I would like to clarify how the conferees treated 2 amendments that were not expressly accepted.

First, the Senate adopted an amendment which I offered that would have ensured that site characterization of Yucca Mountain would include an analysis of any possible conflict between manmade earthquakes induced by weapons testing at the Nevada test site and the safety of a repository that might be located at Yucca Mountain. It is my understanding that the conferees would expect this issue to be addressed by the Department of Energy during site characterization. Is that correct?

Mr. McCLURE. The senior Senator from Nevada is correct. He raised a very valid and significant question through his amendment on this subject, and this issue must certainly be addressed during site characterization. I would add that the conferees were aware that the senior Senator from Nevada convinced the Energy Department to undertake this earthquake analysis after nearly 18 months of effort on his part. After his efforts, the need for this study was so obvious to the conferees that they did not see any need to include specific langague to that effect in the conference report.

Mr. HECHT. I thank my colleague for clarifying the conferee's position on that matter. The other matter that I wish to pursue is the amendment which I offered that authorized such funds as may be necessary for transportation-related improvements in the State where a repository is located. How did the conferees deal with that amendment?

Mr. McCLURE. This is one of the items that the conferees thought should be left in the hands of the nuclear waste negotiator to discuss with the affected State. The conferees had no objection to transportation improvements being considered as part of a negotiated arrangement. I would add that I understand that the senior Senator from Nevada was particularly concerned about transportation improvments that would allow waste shipments to avoid passing through the urban centers of Nevada.

There is ample precedent for these types of transportation improvements. For instance, in the case of the waste isolation pilot project in New Mexico, the Federal Government is providing funds for necessary transportation improvements in that State.

Mr. HECHT. I would like to clarify the significance of two more amendments. I attached an amendment to this bill, when it was before the Senate Energy Committee, that would require the Secretary of Energy to give special consideration, in siting research projects, to States where a repository is located. This amendment means that if a repository is built in Nevada, then Nevada would receive special consideration by the Department of Energy allocating Federal research projects funded by the Department, assuming that the State presents an adequate proposal for those projects. Does the Senator from Idaho agree with me in this regard?

Mr. McCLURE. If Nevada is the host for a repository, then I think Nevada should receive special consideration by the Department of Energy for other Federal research projects, as this amendment so directs. In other words, this amendment means, for instance, that if Nevada gets a repository, then Nevada also has a head start in the competition to get the superconducting super collider. If Nevada's proposal is at least as good as that put forward by any other State, it will receive special consideration. The Nevada proposal would be looked over especially carefully and given every consideration. The same would hold true for dozens of other Federal research projects for which a number of States are competing.

Mr. HECHT. I thank the Senator from Idaho for his comments. The second amendment I want to elaborate

on is derived from a resolution of the Nevada State Legislature, Senate Joint Resolution No. 5, which passed the legislature earlier this year. That resolution urged that if Nevada is selected for a repository, then Nevada should be provided assistance by the Federal Government to mitigate the adverse effects of such a facility in a number of areas. The areas for which the legislature sought assistance include education, public health, public safety, cultural and recreational needs, conveyance of Federal lands, transportation, public utilities, and others. In the opinion of the Senator from Idaho, what effect would this amendment have?

Mr. McCLURE. This amendment requires the Energy Department to report to the Congress on Federal responsibilities with respect to the categories of assistance listed by the Nevada State Legislature in its resolution. I believe it is quite likely therefore, that Nevada would be eligible to receive a wide variety of financial compensation from the Federal Government in return for hosting a repository.

I would like to commend the senior Senator from Nevada on the hard work he has put in on the question of nuclear waste. He was with us on our inspection trip to Sweden and France. He has made good suggestions, constructive suggestions to improve the program and protect his State. He has gotten to be very knowledgeable on the subject, unlike some critics who do not want to know anything about the program. They just want to criticize. He has not offered empty criticism. Instead, he has been very involved with the process and played a very constructive role, and I think all of us on the Energy Committee appreciate it. Nevada is better off as a result of his efforts.

Mr. HECHT. I thank the distinguished Senator for his statement.

NUCLEAR WASTE PROVISIONS

Mr. BURDICK. Mr. President, today we are passing legislation that will fundamentally change the direction of the Federal Nuclear Waste Program. I sincerely hope that these changes will help solve the problem of finding a safe, permanent place to dispose of highly radioactive nuclear wastes.

With respect to the first repository program, the reconciliation bill affirms this Nation's commitment to deep geologic disposal as the preferred environmental alternative for the disposal of highly radioactive wastes. To proceed with this commitment, the bill directs the Department of Energy [DOE] to characterize one of the three sites recommended by DOE and nominated by the President for characterization pursuant to the original Nuclear Waste Policy Act. This one site is located at Yucca Mountain, NV.

The weight of the technical information available to date supports the DOE's recommendation to characterize this site. Nonetheless, there are some unresolved major technical issues concerning the suitability of this site, such as the potential for earthquakes and active volcanoes. These issues can only be resolved through characterization.

Thus, I blieve that the Yucca Mountain site should be studied further. this was the position taken by the Committee on Environment and Public Works during its consideration of the reconciliation bill.

However, it also was the committee's position that the Yucca Mountain site not be the only site that should be studied further. Our position was that it is too early to choose Yucca Mountain as the single site for characterization for a repository. It is unfortunate that the bill does not provide for the further study of other sites, too.

The original Nuclear Waste Policy Act required the selection of a single site only after full characterization of three sites. This was to ensure that the selected site was the best of the reasonable alternatives. It also was based on the principle established in the National Environmental Policy Act [NEPA] that we should fully consider reasonable alternatives when making decisions that will significantly affect the human environment.

Additionally, full characterization of multiple sites provided reasonable assurance that a suitable site could be found in a timely manner even if one of the sites undergoing full characterization proved unsuitable. The search for a second repository in the original act provided additional insurance that a permanent repository would be available even if all the candidate sites for the first repository proved unsuitable. This bill terminates that search, thereby eliminating that insurance, too.

Since the passage of the NWPA the costs and scope of characterization have greatly expanded. Characterization of each site may now take from 5 to 7 years and cost as much as $2 billion. It is natural to ask whether it is necessary to undertake such an expanded program of characterization before we may reasonably choose the best site from the alternatives and have sufficient back-ups.

The Environment and Public Works Committee concluded that it would not be necessary to fully characterize all three sites at depth before choosing a single site. However, for the reasons the NWPA required characterization of three sites prior to the selection of a single site, the committee reported reconciliation language that would have required a certain amount of characterization at all three sites—namely 3 years of surface studies—prior to the selection of a single site.

The Environment and Public Works Committee's position was based on technical information provided by the experts in this area. Both the technical staffs of DOE and the Nuclear Regulatory Commission informed the committee that surface-based testing is a major part of site characterization and will yield meaningful information regarding the suitability of each site.

The technical staff of the Nuclear Regulatory Commission recommended that all three sites undergo approximately 3 years of surface characterization prior to the selection of a single site for at-depth characterization. Each of the five Commissioners supported this recommendation at a hearing before the Subcommittee on Nuclear Regulation.

The surface-based testing approach would have provided for the consideration of alternatives prior to site selection and would have provided back-ups if the single site selected soon proved unsuitable.

Unfortunately, the conference substitute did not incorporate this approach. Based on the Senate Energy and Natural Resources Committee's position, this bill differs radically from current law and the Environment and Public Works Committee's position, by choosing a single candidate site prior to any characterization of any of the three sites.

Thus, today's legislation selects a single site for further study in disregard of many of the programmatic safeguards in the original act that the Environment and Public Works Committee advocated be retained. Simply put, the alternatives were not considered in any technical manner, and there are no back-ups. The Nuclear Waste Program is now like a plane flying with only one engine. We must hope that today's political decision will turn out to be safe and technically correct.

I am pleased, however, that significant provisions reported by the Environment and Public Works Committee are incorporated into the conference substitute. Other than the elimination of the consideration of three alternate sites for the repository, which as just outlined, is a major and dangerous departure from current law, the substitute does not affect the application of NEPA to the repository program. Additionally, the application of NEPA to the Monitored Retrievable Storage [MRS] Program is unaffected.

The Repository Program and the complementary MRS Program are designed to have significant impacts upon the quality of the human environment—namely the establishment of a system for the permanent isolation of highly radioactive wastes from the human environment. There should be no doubt that NEPA applies to this program.

Another significant concept reported by the Environment and Public Works Committee to the Senate that was adopted in the conference substitute was the imposition of licensing conditions upon the MRS to ensure that the MRS does not become a permanent repository. The MRS, as envisioned by this legislation, is to be a centralized facility to package wastes for transportation and later emplacement into the repository. It is to be an integral part of the operation of the repository. It is not to be a separate facility with a separate mission. It is not to be a back-up storage facility in the event that acceptance of waste by the first repository is delayed.

The licensing conditions included in the conference substitute link the development of the MRS to the development of the repository. For example, the bill does not allow construction of the MRS to begin until construction of the repository begins, and requires construction of the MRS to stop if construction on the repository stops, for whatever reason.

These licensing conditions apply to any MRS licensed by NRC—either one located at a site selected by DOE or one that is located in a host State pursuant to the efforts of the negotiator. These conditions will help prevent any lessening of the commitment to deep geologic disposal through the convenient expedient of temporary storage.

The conference substitute includes provisions permitting DOE to enter into a benefits agreement with the State of Nevada or a State willing to host an MRS facility. It also creates an Office of Nuclear Waste Negotiator to seek a State or Indian tribe willing to host a permanent repository or MRS facility at a suitable site.

I support these provisions. No one should be required to take another's waste without some compensation. It also makes sense to try to find a willing host for one of these facilities before selecting an unwilling host.

Based on experience, however, I would be extremely surprised if a willing, qualified host could be found for the repository. To date, each State in which a potential site has been identified has expressed solid and unyielding opposition to the further consideration of that site for a permanent repository.

In view of these provisions, Mr. President, it appears that once this legislation is enacted the success of this Nation's Nuclear Waste Program will depend entirely on the suitability of the Yucca Mountain site. We are taking a technical risk on one site in one State for largely political reasons. I hope that this gamble succeeds, for upon it rests the quality of the human environment surrounding nuclear powerplants in over 30 States and the future of nuclear power.

Finally, Mr. President, I would like to make a brief comment regarding the legislative process by which this programmatic redirection has been achieved. First, neither the budget process nor the appropriations process is the appropriate forum to consider major programmatic policy issues that are within the jurisdiction of the authorizing committees. I urge my colleagues to resist efforts in the future to allow legislation such as this to be considered in the budget process.

Second, there should be no dispute regarding the jurisdiction of the Committee on Environment and Public Works over the redirected program. This committee has jurisdiction over environmental policy, and the implementation of that policy. This committee fully participated in the development of this legislation, and many policies advocated by this committee have been incorporated into the legislation.

Senators BREAUX and SIMPSON, the chairman and ranking minority member of the subcommittee on Nuclear Regulation, respectively, and their staff deserve much credit for their extraordinary efforts and dedication in this respect. They have been leaders on an issue in which the rewards are undeservedly scarce.

I expect that this committee's active role will continue. I hope that this participation in the redirected program will be welcomed by all. Through cooperation all involved or interested in the success of the program can best contribute to that success.

INDIAN TRIBAL TAX EXEMPT BONDS

Mr. DECONCINI. Mr. President, a provision of the conference report which originated in the House, substantially restricts the authority of Indian tribal governments to issue tax exempt bonds which are not private activity bonds. Public bonding authority is limited to bonds in support of "essential governmental functions" which are those "customarily performed by State and local governments." While the final version of this language is an improvement over the original House language, I am still disappointed in the final outcome. Clearly if there is one area of our economy that cries out for governmentally encouraged economic development, it is Indian reservations.

However, we must now live with the conferee language. It is my understanding that the State of West Virginia, and perhaps others, have used this tax exempt bond-issuing authority to finance recreational activities available to the public, and to build all elements of a basic infrastructure supportive of subsequent private development. Nowhere are such facilities needed more urgently than in Indian country, and I am confident that it is the conferees intent to permit tribal governments to continue availing themselves of this and other economic tools in order to attract investment to their lands as expenditiously as possible.

TITLE VII—VETERANS' PROGRAMS

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I wish to address the provisions of title VII of the conference agreement which relate to veterans' programs. These three provisions achieve savings in accordance with the Summit Agreement on Deficit Reduction.

SALES OF VENDEE LOANS WITH OR WITHOUT RECOURSE

Section 7001 of the conference agreement would, effective with respect to sales made from the date of enactment through September 30, 1989, eliminate the restriction in section 1816(d)(3) of title 38, United States Code, which prohibits the VA from selling vendee-loan notes without recourse unless the amount received is not less than the upaid balance of the loan, and instead would require the Administrator of Veterans' Affairs to make certain determinations and consider certain factors before selling such notes.

Buyers of VA-acquired properties have two options available with respect to financing such purchases. They can pay cash, which they usually will obtain through a loan from a conventional lender, or, if they qualify under the VA's credit-underwriting criteria, the VA will finance the transaction and accept the buyer's promissory note—known as a "vendee loan".

For the VA to sell a vendee-loan note "with recourse" means that the sales agreement includes the VA's promise in the event of default to buy the loan back for an amount equal to the outstanding balance. For more information regarding the background of and rationale for the current law provisions being modified, I refer my colleagues to the more extensive treatment of this subject in my statement beginning on page 34258 of the RECORD for December 4, accompanying the Senate's passage of the compromise agreement on S. 1801/H.R. 2672, the "Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987," which was approved by the House on November 17 and by the Senate on December 4 and is now awaiting the President's signature.

Under the conference agreement, the Administrator would be permitted to sell vedndee-loan notes with or without recourse depending on the Administrator's determination, with respect to a proposed sale of such notes, as to which basis would be in the best interest of the loan guaranty program, taking into account the comparative cost-effectiveness of selling the notes on each of the two bases. The Admin-

istrator would be required, in making that comparison, to determine and consider, based on estimates of market conditions and other pertinent factors at the time of sale (1) the average amount by which the selling price for the notes if sold with recourse would exceed the selling price of the notes if sold without recourse and (2) the total cost of selling the notes with recourse, including various cost factors specified in the legislation.

The Administrator also would be required, within 60 days after making any sale of such notes prior to October 1, 1989, to submit to the House and Senate Veterans' Affairs Committees a report (1) describing the application of the provisions of this section and the determination made thereunder with respect to each of the specified factors, (2) comparing the actual results of the sale with the anticipated results, and (3) describing any steps taken to facilitate the marketing of the notes.

Beginning on October 1, 1989, the current-law restriction on the sale of notes without recourse would be reinstated.

The Congressional Budget Office [CBO], and the Office of Management and Budget have estimated that, as measured against the Gramm-Rudman-Hollings [GRH] sequestration baseline, this provision would achieve the same savings in fiscal years 1988 and 1989 as the Senate-passed provision proposing a permanent repeal of section 1816(d)(3).

The conferees from the House and Senate Veterans' Affairs Committee also expressed in the joint explanatory statement their concern that their ability to consider and recommend legislation with regard to the policy of selling vendee-loan notes with or without recourse has been diminished by scorekeeping policies recently adopted by the CBO and the OMB, especially since those policies were adopted without any consultation with our two Committees.

Mr. President, as I indicated, the Senate amendment to H.R. 3545 (section 7001) would have repealed the without-recourse provision. I am pleased that we have reached a compromise with the House—which had originated that provision—which will permit without-recourse sales while taking steps to allow sales to be made with or without recourse depending on which would be in the best interest of the Loan Guaranty Revolving Fund [GRF]. Although I continue to believe that an absolute prohibition of without-recourse sales is undesirable, I share the concern that the LGRF must be protected against the Administration's attempts to provide quick cash for one-time reductions of the budget deficit at the expense of the home loan program and the veterans who benefit from it and to use without-recourse sales as a means of "privatizing" the program. Hence, if the VA is not able to demonstrate to the Congress that such sales can be in the best interest of the LGRF and thus provide a basis for further legislation in the next 2 years, the absolute prohibition of without-recourse sales will automatically become the governing rule.

LOAN FEE

Mr. President, the second provision relating to veterans' programs would extend the 1-percent VA loan fee for 2 years, through September 30, 1989. The fee extension also is included as section 2(a) of H.R. 2672. For more information regarding the background of and rationale for this provision, I refer my colleagues to the more extensive treatment of this subject in the committee report on S. 1801 (S. Rept. No. 100-204, pp. 41-43).

The CBO estimates that, as measured against the GRH sequestration baseline, this provision would achieve savings in budget authority and outlays of $165 million in fiscal year 1988 and $221 million in fiscal year 1989. According to the Budget Committee staff document describing the Summit Agreement would achieve savings of $0.2 billion each year.

This provision is included as section 2(a) of H.R. 2672.

CASH SALES OF PROPERTIES ACQUIRED THROUGH FORECLOSURES

Mr. President, the third provision in the Veterans' Programs title would generally increase during fiscal years 1988, 1989, and 1990, the proportion of acquired foreclosed properties which the VA is required to sell for cash rather than by vendee loans, from a minimum of 25 percent and maximum of 40 percent to 35 percent, respectively.

This provision is included as section 6 of H.R. 2672. For more information on the background of and rationale for this provision, I refer my colleagues to the more extensive treatment of this subject in the committee report on S. 1801 (pages 30-31) and my floor statement in the RECORD on December 4 on the compromise agreement on H.R. 2672/S. 1801 (17385).

The CBO estimates that, as measured against the GRH sequestration baseline, this provision would achieve savings in budget authority and outlays of $42 million in fiscal year 1988 and $24 million in fiscal year 1989.

STATUTORY CONSTRUCTION

Mr. President, the conference agreement (section 7004) also contains two provisions regarding statutory construction of the provisions in title VII. First, section 7004(a) would clarify that the provisions in section 7003 of the bill (described above) satisfy section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), subsection (a) of which generally prohibits treating a law that transfers a receipt from one fiscal year to an adjacent fiscal year as altering the deficit or producing a net deficit reduction. Section 7004(a) states that, for the purposes of those provisions, title VII achieves savings made possible by changes in program requirements, namely, by requiring a greater proportion of cash sales and a reduced proportion of Government loans.

Second, section 7004(b) provides, in light of the possibility that certain provisions identical to those in sections 7002 and 7003 may be enacted in H.R. 2672, that identical provisions not be incorporated in title 38 of the United States Code twice.

H.R. 2700 PLUTONIUM AIR TRANSPORTATION SECTION

Mr. MURKOWSKI. Mr. President, included in the budget reconciliation package now before the Senate is a section on H.R. 2700 which will ensure that plutonium, a byproduct of the world's reliance on nuclear energy, is transported in a safe and sound manner.

I offered this legislation in the form of an amendment to H.R. 2700 because I was concerned about the air shipments of plutonium contemplated by the agreement between the United States and Japan concerning peaceful uses of nuclear energy now before Congress for review. This section is very simple and straightforward. It simply requires the Nuclear Regulatory Commission [NRC] to conduct actual crash tests of casks before they are certified as safe containers for the air transport of plutonium. The certification process will also require public input and be in accordance with all other laws including the National Environmental Policy Act. It is my understanding that such a certification is a significant Federal action with serious implications for the human environment and will therefore require a thorough evaluation in an environmental impact statement.

Mr. President, the need for this section is readily apparent. Although it is not now the policy of the United States to reprocess spent nuclear waste, that is the policy of certain other countries, including Japan, France and Great Britain.

The recent agreement worked out between the United States and Japan for the use of reprocessed nuclear fuel specifies air transport as a means of moving the plutonium generated by that reprocessing from Europe to Japan. The agreement requires those shipments to take a polar route or another route selected to avoid areas vulnerable to natural disasters or civil disorders. This means that air shipments of plutonium could fly over Canada and Alaska—including a possible landing for refueling in Alaska or Canada.

And, Mr. President, if Canada objects, these flights may cross over the 11 Northern tier States from Maine to Washington, possibly refueling in Washington.

Mr. President, I do want to ensure that we move with the utmost caution. The NRC has yet to certify for air transport a container capable of safely carrying the sizeable quantities of plutonium envisioned by the Japanese. Already the Japanese have launched a concerted effort to design and build a container that can be certified by the NRC.

The purpose of this section is to improve the Testing and Certification Program required by existing law for containers used in the air transport of plutonium from a foreign nation to a foreign nation through the air space of the United States. This section requires that plutonium air shipment containers be subjected to both an actual drop test and an actual airplane crash test before they may be certified as safe by the Nuclear Regulatory Commission.

However, the Commission need not require the airplane crash test if it determines that the stresses placed on the containers produced by other tests used in developing the containers exceed the stresses which would occur during a worst case plutonium air shipment accident. This determination must be verified by an independent scientific review panel. And, Mr. President, if this review panel is to be credible it must be composed of at least a majority of experts from the Federal Aviation Administration and the National Transportation Safety Board and should include experts from appropriate public interest groups.

In designing the tests requiired by this section, we expect the Commission will conduct a survey of actual aircraft accidents and replicate the most severe conditions under which such accidents have occurred. For example, on March 3, 1974 a Turkish airlines DC-10 crashed into a forest in France at a speed upon impact of 432 knots, nearly 500 miles per hour at sea level, as recorded by the flight data recorder. This data would indicate that the airplane crash test should be designed so that the speed of the airplane at the time of crash impact exceeds 423 knots.

Mr. President, it is important to note that this section also authorizes the President, in carrying out agreements for peaceful nuclear cooperation, to pursue and conclude arrangement for routes and means of shipping plutonium which do not fly over and possibly land in the United States. Frankly, Mr. President, I am not yet convinced that the administration has found the safest method of transporting this extremely dangerous material. It is not clear that air shipment is either the most safe or practical means of transporting plutonium. Commercial plutonium has been shipped by sea in the past and this should be reevaluated.

Further, the United States agreement with Japan prefers a polar route for air shipments presumably because it is one of the most direct routes for shipment. However, the fact that the polar route is the shortest route does not mean it is the safest route. A southern route which does not pass over the United States, transversing the Pacific Ocean instead, may be much more safe. And, Mr. President, if the plutonium is shipped by air, can it be transported by military planes which are refueled in midair and which do not land near the homes of American civilians?

Mr. President, it was not my intention in offering this legislation to undo the work of the NRC in certifying small containers under existing law as safe for domestic, import or export shipments of plutonium. And therefore this section specifically exempts those containers so certified. However, I fully expect that the requirements of this section will be met with respect to all future air shipments of commercial plutonium from a foreign nation to a foreign nation through the air space of the United States.

Mr. President, it would defeat the purpose of this legislation if 50 or 100 of the smaller containers certified as safe for domestic, import or export shipments of small quantities of plutonium were loaded onto a cargo airplane in order to make an international commercial shipment of a large quantity of plutonium through U.S. air space without complying with the more strict certification requirements for such shipments set out in this legislation.

Mr. President, plutonium is proposed to be used in the peaceful civil energy programs of our reliable nuclear trading partners provided our nonproliferation laws are complied with. For a country like Japan, with no naturally occurring energy fuels, plutonium is highly valued as an indigenous energy resource.

In general, I am not opposed to plutonium shipments and the use of plutonium in peaceful energy programs. Using reprocessed spent fuel in civil nuclear energy programs make good sense provided the proper controls and safeguards are in place.

As I have stated, one aspect of the agreement between the United States and Japan caused me great concern, and that is the advance consent given to Japan to ship its plutonium from Europe, where it is stockpiled, back to Japan. I intend to pursue a course of action consistent with this legislation as the Foreign Relations Committee considers this agreement. I want to be sure that this agreement is not approved unless:

First, the testing program for the shipment containers adequately ensures the safety of those containers.

Second, the routes for the air shipments of plutonium, including any landing and refueling points, are evaluated under the National Environmental Policy Act.

Third, the plutonium shipments by air are approved under Japanese law and the Japanese diet has signed off on the agreement.

Fourth, the Japanese pay for whatever costs are associated with testing of containers and otherwise ensuring that plutonium air shipments are conducted safely.

Mr. President, I want to be sure that when plutonium is shipped, those shipments will be safe. I feel strongly that this is a matter which deserves a high level of congressional and public scrutiny. I believe this legislation is a significant step in the right direction.

RECLAMATION REFORM AMENDMENTS

Mr. BRADLEY. Mr. President, in 1982 we enacted the Reclamation Reform Act. That statute accomplished many things, including a sixfold expansion of the historic acreage limitation, a repeal of the traditional residency requirement, and many other benefits sought by western agricultural interests who receive water from reclamation projects. In exchange, we insisted on a host of pricing reforms that would ensure better repayment of these costly projects and an absolute limit on the size of any farm that could receive subsidized water.

This spring, the Department of the Interior issued a new set of regulations which were supposed to implement this important statute. However, from the day they were issued, these new rules have caused tremendous concern. I don't believe they adequately enforce the tighter standards Congress intended. As chairman of the Subcommittee on Water and Power, I am particularly concerned that these rules may allow, or even encourage, the restructuring of farm operations and other devices to allow a small group of larger farm operators to receive benefits beyond those intended by Congress.

Mr. President, as my colleagues will recall, the House Energy and Water Appropriations bill contained amendments to the Reclamation Reform Act of 1982 and the Senate bill did not. The conferees have agreed upon a compromise which will amend the 1982 Act and which I strongly support.

It is a good first step to respond to the new regulations. The amendments to the Reclamation Reform Act address four key issues.

First is the requirement that if we are to effectively enforce the act, we must have the necessary information to identify any abuses. The amend-

ment directs the Secretary of the Interior to undertake a systematic audit of individuals and entities subject to the law, in addition to compliance checks already planned. The oversight hearing conducted by the Senate Committee on Energy and Natural Resources found that insufficient information is currently being collected. The audit to be undertaken by the Secretary will help correct that; the audit will be a continuous process with an annual report submitted to the Congress. The conferees emphasized the need for the audit to focus on those legal entities and individuals, including farm management and operators, who farm more or have land holdings of more than 960 acres. This is appropriate since this is the source of the greatest potential abuse of the reclamation law. However, I remain concerned about farms and farm operations which operate under prior law and exceed the 160-acre farm size limitation. I would expect the Secretary to audit those operations as well.

I do not believe that adequate enforcement of the act will not pose a hardship to the small landholder. To the contrary, the whole history of reclamation law reflects the desire of the Congress to help the small landholder.

The second issue addressed by the conferees will bring to an end the abysmal interpretation by the Department of Interior. That interpretation permits the delivery of low-cost water for longer periods of time than Congress intended to lands under recordable contracts entered into prior to the enactment of the Reclamation Reform Act.

Mr. President, the old reclamation law allowed a landowner to receive low-cost water for up to 10 years on acreage in excess of applicable limitations if the lands were subject to a recordable contract. Generally, recordable contracts provide that within the 10-year period, the owner could sell the lands at a price approved by the Secretary of the Interior or at the end of the contract power of attorney would vest with the Secretary and he would sell the lands. The Reclamation Reform Act extended the existing contracts for certain landowners, who had been prevented from disposing of lands under recordable contract. This gave these owners additional time to sell their lands. In addition, lands covered by recordable contract also received less than full-cost water for period of up to 18 months beyond the original 10-year contract. However, the Department of the Interior published rules which provided for the delivery of water at less than full cost for the entire period of the extended recordable contract.

This distortion may have already cost the Treasury $40 million in underpayments.

While the amendments would end this practice prospectively, unfortunately the amendment prohibits the Secretary from retroactively seeking the underpayments. This was agreed to, not because of doubts about payments owned to the Government, but rather because an equitable and fair method of seeking reimbursement could not be determined. It will be appropriate for the Congress to revisit this issue in the near future.

The conference agreement also amends the Reclamation Reform Act to make it clear that, when the Secretary finds that any individual or legal entity subject to reclamation law has not paid the required amount for irrigation water, the Secretary shall collect the amount of any underpayment plus interest from the date the required payment was due. This will provide a clear incentive for recipients of irrigation water to pay their bills in full in order to avoid the interest charges.

And finally, the conference agreement addresses one of the serious issues with regards to trusts that are being used to circumvent the intent of the reclamation law. The amendment requires certain lands placed in trust to be attributable to the grantor if specific conditions are met. A trust, where land returns to the grantor upon his whim or some future event, presents obvious opportunities for abuse of the taxpayer's interest. These so-called "revocable trusts" have no place in reclamation law and Bureau contracts.

Mr. President, as I said earlier, these amendments are a good beginning, and I support them. But I would alert my colleagues, the Department of the Interior, and certain water users that this is not the end of the issue.

OPPOSITION TO LUMP-SUM PROVISIONS IN BUDGET RECONCILIATION

Ms. MIKULSKI. Mr. President, I rise in opposition to the recent change in the budget reconciliation bill, which involves the lump-sum option for Federal employees. The full lump-sum retirement option was promised to Federal employees. I object to this provision, with the full understanding of the great need to balance the budget. This reduction, however, and similar ones in the past, have far too often been on the backs of hard-working Federal employees.

Additionally, Mr. President, these targeted reductions do not have the saving power as do reductions that directly reduce cost outlays. Withholding the full lump-sum option, merely delays the inevitable outlay of those retirees' benefits. Delay does not reduce long-term costs. As we continue to find responsible and substantive ways to reduce the deficit, we must not break our promises to Federal employees and must seek real and long-term savings. Reducing the full lump-sum option is not the honorable, nor is it the wisest way to find responsible deficit reductions.

Mr. WALLOP. Mr. President, earlier today I was asked by the Budget Committee if I would like to sign the conference report on the reconciliation package which we are now finally seeing for the first time in its entirety. I was a conferee on one section of the bill for the Energy Committee which does include beneficial provisions for my State. However, by signing the report, I basically would have given consent to the entire document, a document I had not seen. We had not even so much as a summary. Needless to say, I did not sign the conference report.

Now we are preparing to vote on the two most important bills to come before the Senate this year, and we have no idea what is included in this Christmas package. The biggest and most unlikely surprise we could receive is to learn that we might actually have met our spending reduction targets. However, those of us who thought we would actually receive what we had requested are discovering that what all our good intentions have brought us are lumps of coal and switches and ashes.

The conference committee has merged mediocrity, in the guise of the Senate reconciliation bill, with disaster, as concocted by the House reconciliation bill. We have been seduced into raising taxes. A painless tax increase according to proponents, but these are the type of taxes which rocked Wall Street in October, and are neither harmless nor responsible.

On the spending side, we were required to provide real spending reductions of only $13.5 billion. Listening to the earlier debate in the House of Representatives on the conference report, it appears that the spending reductions do not meet this target. By comparison, the threatened budget sequester would have cut this year's increase in Federal spending by $23 billion.

We went to conference with a very complex package. For instance, the Senate Finance Committee conferees had to consider 134 items; and, this does not include the 23 items included in the section on nursing home standards or the 44 items in the section on the funding of private pensions. the list did however include new spending items proposed by the House.

It is not clear whether the proposal contains real spending reductions or a collection of the usual spending savings which disappear soon after we enact them. It is absolutely certain that the Congress will be authorizing new spending by passing this deficit reduction legislation. However, we will not know until well after we have voted on this package. This blind

voting is sad commentary on the world's greatest deliberative body.

This tax package is being sold as a "painless" $23 billion increase, hitting the rich and corporate America, leaving the individual taxpayer relatively unscathed. Mr. President, the economy of Wyoming is still reeling from the depression in our natural resource and agricultural based economy. I am concerned that the negative impact this increase will have on Wyoming will far exceed the alleged benefits to the Nation.

Wyoming is the largest per capita small business State in America. I note with concern and alarm that 30 percent of the tax increase is made up of excise and employment taxes: areas that will hit small businesses hard. Taxes that hit small business in Wyoming will hit the individual as well.

We have the extension of the temporary 3-percent telephone excise tax for another 3 years, hitting both business and individuals. This tax was set to expire on December 31, 1987, and will raise $3.6 billion over 2 years. As an excise tax, it is regressive, hitting lower-income individuals harder than higher-income individuals.

One provision is yet another extension of a "temporary" tax. This time it is a 3-year extension of the temporary FUTA tax increase which was enacted to pay back funds drained from the system during the last recession. The fund is now healthy, back up to the proper level, but the tax remains. This little gem will cost business $1.7 billion in the next 2 years. I cannot think of any small business in Wyoming that will not be touched by this.

We also have added to the payroll costs of many Wyoming trades and businesses. This time we expanded Social Security to include all cash tips. We extended the tax to include certain agricultural workers and family members employed in the family business. We even decided to tax employee benefits by including group term-life insurance in the FICA wage base. These provisions will add nearly another $1 billion to payroll costs of small business and reduce the take-home pay of many Wyoming workers. This in the name of deficit reduction. Where has this year's chief buzzword "competitiveness" gone?

I am further dismayed over the 5-year freeze on the estate and gift tax rate. We all know what happens to rate freezes around here—they tend to be ice age in duration. I hope and pray that no ranch family or family owned business is forced to liquidate in order to pay the extra estate tax due because of this change—but we all know some will.

I cannot help but think we work in a vacuum around here. We seem to be able easily to ignore the impact of other legislation we enacted in this session and in past sessions.

We seem to have forgotten that the year 1988 ushers in another huge increase in Social Security payroll taxes. Between increases in the rate and increases in the wage base, we are looking at a $33 billion tax increase. I cannot think of a worker or small business in Wyoming that will not be affected by this increase.

We also have a catastrophic health bill that passed this Senate. This will take another $8 billion out of the pockets of Americans over the next 2 years.

So, lo and behold, we no longer have a $23 billion tax increase facing the country, but a $64 billion tax increase. Much of this falling on wage earners and their employers.

The White House would be doing us a service by playing The Grinch Who Stole Christmas and vetoing this bill. At the very least, it would give us an opportunity to read the conference report. I cannot vote for this unknown quantity despite the fact that an affirmative vote would assure adjournment of the Congress. We face a classic Hobson's choice, either to reject the conference report or to adjourn.

BUDGET PACKAGE

Mr. ROTH. Mr. President, today is December 21, 1987. I point that out because we are 3 months into the fiscal year and the Federal Government has no budget and no annual appropriation. This is not budgeting, this is chaos.

For the past few days the big news item has been that the Congress and the White House are close to an agreement. The fact that we are finally taking action—as opposed to what action we are taking—has become the central focus of all reports. It disturbs me greatly that the long overdue pressure to take action is resulting not in deficit reduction but increased taxation and spending. In reality, the budget reconciliation bill, combined with the continuing appropriations bill, will actually lead to an increase in spending of nearly $50 billion over last year's spending.

In fact, under the package, it is likely that this year's deficit will be greater than last year's deficit, and our constituents will soon see that little has been done to cut spending. They will see that Congress is merely reducing the spending level from an inflated baseline. I believe they will be justifiably incensed that these synthetic figures are being used to force them to swallow a $23 billion tax increase.

Now, I have heard suggestions that I should vote for this because the only alternative is a sequester. And my position concerning a sequester has been clearly stated. I voted against the original Gramm-Rudman law and when Congress revised Gramm-Rudman in September, I voted against that, too. On September 23, I stood on this floor and strongly opposed the changes being made. I knew then it would result in a tax increase. That very day, I said:

> The Gramm-Rudman-Hollings process * * * once again puts us firmly in a position for tax increases * * * We see that it could provide, intentionally or otherwise, the grist needed to force the White House into a tax increase.

The automatic across-the-board spending cuts are a trap for the President, a ticket to new taxes on a road to new revenues. Clearly, I do not want a sequester. I did not vote for one. I do not favor one. But neither do I favor a tax increase on the American people. This reconciliation bill will raise $9 billion in new taxes this year and $14 billion next year.

I am adamant in my support for lowering the deficit, but this is not what Congress is proposing. In fact, while those who support this package are saying that discretionary, defense, and entitlement spending will be reduced, in reality, all of these programs will receive increases above last year's levels.

Frankly, this is not the message we want to send to Main Street. What began as an effort to sooth Wall Street has resulted in a scheme to tax Main Street. Rather, the message we should be sending is that Congress is taking steps to control the Federal spending and the deficit. That message is impossible to convey as we stand here 3 months into the fiscal year to consider two pieces of legislation whose combined effect will be increased taxes and increased spending.

A few weeks ago, I stood on the Senate floor to lay out a plan of action to move the Congress in the direction of real deficit reduction. Those ideas were not accepted. Congress has not acted responsibly, and therefore, I will vote against the measures we consider today. I cannot in good conscience vote for a $600 billion spending package that simply sends the signal that it is business as usual in Washington—more taxes, more spending.

I will continue to build upon my proposals for meaningful deficit reduction. I hope the Congress will consider that again in the future. One thing is clear. The deficit is not going away, certainly not with the package before us today.

DEFICIT REDUCTION PACKAGE

Mr. KERRY. Mr. President, the recent agreement from the budget leadership summit represents a beginning in bipartisan cooperation in combating the Federal deficit. It is the first time the President has sat down with the leaders of Congress in a spirit of compromise to reach an agreement on a comprehensive approach. It is unfortunate, though, that it took a 500-point crash in the stock market to

bring this administration to the table and to its senses.

The reconciliation bill we vote on today is the cornerstone in implementing that agreement. Its achievements are more modest than I hoped for, but they are a helpful beginning. The bill will reduce the Federal deficit by $80 billion within 2 years, by cutting $33.7 billion in 1988, and $46 billion in 1989. In doing so it makes a modest contribution to further reducing the Federal deficit which has accumulated so dangerously during the Reagan administration.

This is welcome relief from the distorted budgetary pattern of 1980 to 1987 which saw a 50-percent increase in military spending, an 80-percent increase in funds needed simply to pay the interest on the national debt, a combined 20-percent increase for Social Security, Medicaid, and Medicare, and a combined total of minus 30 percent for all other domestic discretionary spending.

Passage of this agreement means that we will be able to avoid a Gramm-Rudman-Hollings sequester. I supported Gramm-Rudman-Hollings because without an involuntary mechanism for reducing the deficit, it was clear that Congress and the administration, even with the best intentions, would be unable to make the tough decisions necessary to reduce the deficit. Gramm-Rudman has done just that. It has forced hard choices and has begun to reverse the direction of 7 years of deficit spending. The leadership agreement has made tough decisions on lowering the Federal deficit, without resorting to the automatic cuts of Gramm-Rudman. But without the imminent threat of sequester, and the cuts it would have entailed, this current compromise would probably not have occurred.

This is an adequate agreement considering the very difficult circumstances under which it has been negotiated. While I would have liked greater deficit reductions, this is the largest deficit reduction package in history, and it mandates serious cuts. It will mean new revenues of $9 billion in 1988, and $14 billion in 1989. Added to stiffer IRS compliance measures and additional user fees, revenues should total more than $28 billion in 2 years. We will save $13 billion in military spending, and $20 billion in domestic programs. It does this without cutting Social Security, as it should not. But it does include entitlement savings, including reductions in the farm price support program, reductions in the unused, excessive balances for guaranteed student loans, and restraint in payments to providers under Medicare. The revenues will be garnered through a variety of changes in the Tax Code, virtually all of which affect business, as opposed to individual taxpayers. I am pleased that most provisions increasing Treasury receipts are expected to have little, if any, impact on lower- and middle-income households. No new revenue is expected to be raised by increases in personal income taxes.

Without the shock of Black Monday, this agreement might never have happened. This agreement may bring some degree of stability back to financial markets though deeper cuts would have done more. It will help to restore, in part at least, confidence in our ability to face reality and deal seriously with the problems caused by the Reagan deficit, the trade deficit, and the international economic crisis. Our budget and deficit deliberations and discussions have moved to center stage of the world's economic arena. Responsible action is critical to international economic stability. This package is the signal of our intent to build a foundation, with savings, revenues, and reductions, which we can and must build upon in the future.

I believe that this agreement is better than a $23 billion sequester. It is important to note that the nature of a sequester has changed from its orignal intent of an even-handed, across-the-board reduction in defense and domestic programs. Congress has acted to exempt nearly 80 percent of our budget from the sequester so that 20 percent of our budget items would bear the brunt of that substantial reduction. That level of reduction for critical programs in housing, education, transportation, the handicapped, et cetera, are far too strenuous a burden for them. This balance of revenue and reductions is a far more equitable choice.

While noting that this reconciliation is less than I hoped for, we must recognize that it is all that is now politically possible. The depth of our deficit crisis calls for a bold initiative, but fully a month of difficult negotiations, was required between congressional leaders and the administration in order to produce this package.

This is a delicate balance of numerous compromises. Democrats and Republicans in both Houses have demonstrated flexibility and a willingness to yield on longstanding issues. We must, however, be clear about the very difficult limits on our choices in dealing with today's economic crisis for we now must deal with a structural deficit. As Senator BUMPERS said on the floor recently, "Since 1981 the amount of nondefense, nonentitlement, noninterest, discretionary money available to us to balance the budget has gone from 26 percent of the budget to 14.9 percent." In other words, our choices are extremely limited. We can produce other options by either moving to increase revenues or additional reductions in key programs which have been previously considered off limits to major reductions: defense, Social Security, Medicaid, Medicare, civil service pensions, veterans' pensions, and, or course, the legal obligations for interest on the debt. So the choices ahead are even harder than those behind us. But we must face them. This reconciliation bill is a step in that direction.

This 2-year agreement should help us all in avoiding another acrimonious budget battle between Congress and the administration in an election year. While the national debate on a national budget strategy will be a key part of our election campaigns, as it should be, it is my hope that this agreement will free our budget process and appropriations from bipartisan wrangling.

Unfortunately, this agreement leaves too many of the toughest decisions for the future. We must still struggle with how to improve a now bogged down budget process, how to look fairly at issues like COLA's, entitlements, retirements, military spending, and new national needs. We must also look anew at the revenue side of our Federal budget ledger. I think it may be finally time that we put everything on the table. We may decide that some items must be fully protected, but we should start our review with a clean slate.

Mr. President, we have a difficult task ahead. Together with the American people we must take a new look at our options. It means reconsidering balancing needs and revenue requirements in the Federal budget. It means looking hard at competitiveness issues, trade, productivity and overall economic policy. Much will be left to a new administration. This reconciliation bill will move the budget to that election year junction in as responsible a way as is possible at this time and, therefore, I support it.

NUCLEAR WASTE PROVISIONS IN RECONCILIATION

Mr. MITCHELL. Mr. President, the troublesome issue of nuclear waste disposal is addressed in reconciliation. I am pleased that the conferees adopted the Senate language on the second round sites. This language postpones any consideration of a second site for at least 20 years. The Department of Energy is required to submit a study to the President and to Congress between January 1, 2007, and January 1, 2010, on the need for a second repository. Meanwhile, DOE is not authorized to conduct any activities related to a second site and DOE can no longer consider Maine as a potential nuclear waste site.

In addition, the conferees adopted the amendment offered by Senator COHEN and me that terminates all U.S. research funding for programs designed to evaluate the suitability of crystalline rock as a potential repository host medium. This provision suspends all work on a medium like that

found in the seven second-round sites currently under consideration and does not affect any first-round research.

In the event that the Secretary at any future time considers any sites in crystalline rock, the Secretary is required to consider several new factors not currently required.

These include seasonal population fluctuations, proximity to public drinking water supplies and the impact of characterization or siting decision on lands owned or placed in trust by the Federal Government for Indian tribes.

These new factors provide additional assurances that the Sebago Lake and Bottle Lake regions in Maine will never be considered as potential sites for a high-level nuclear waste repository. It is extremely unlikely that DOE will again seek to consider any site in Maine as a nuclear waste repository, but these provisions make it clear that the Maine sites should be ineligible on their merits.

In addition, the conferees added additional safeguards for transportation of nuclear waste. Whatever site is finally constructed, waste will have to be transported to that site. We need to assure the highest possible level of safety during transportation.

I am pleased that this is the substance of the agreement on the second-round sites. As I have repeatedly stated before, there is no technical reason to have two sites. There is no economic reason for two sites. Operation of only one site will save ratepayers billions of dollars. Recognition of these facts by Congress in this legislation is a much-needed correction in our nuclear waste program.

REGARDING THE REGULATION OF PENSION TERMINATIONS AND REVERSIONS

Mr. HEINZ. Mr. President, I rise today to express my deep regret that the reconciliation bill which we are considering tonight does not contain provisions to discourage employers from terminating their defined benefit pension plans and recapturing the so-called excess assets. I believe that congressional inaction on this issue presents a serious threat to the retirement security of the working men and women of this country.

In recent years, there has been a growing pattern of employer termination of pension plans to recover assets to finance business transactions totally unrelated to the retirement income needs of their employees.

Since 1980, employers have terminated over 1,300 pension plans and recovered nearly $16 billion in pension assets. These terminations are troubling because the surpluses have often resulted not from wise investment by the plan sponsor, but from the mere act of termination and the elimination of future benefit obligations.

The termination of pension plans and reversion of surplus assets to employers is a serious threat to the retirement income of American workers and to the security of our retirees that has not been adequately addressed in the pension funding provisions of this legislation.

Federal policy provides tax benefits to encourage employers to fund ongoing plans to pay future retirement benefits to their workers. Premature plan terminations and the use of pension funds for other purposes undercut this basic policy objective.

Last February, the administration recommended a change in their current policy to discourage pension termination and reversions. Unfortunately, the Finance Committee chose not to move in this direction and the conferees have been unable to come to agreement in this area. Our inaction leads to the ratification of old administration guidelines on pension terminations that encourage employers to misuse pension assets. Under these guidelines, issued May 23, 1984, employers may terminate plans, recover surplus assets, and then reestablish identical follow-on plans.

Mr. President, the hour is late, and I am afraid that we will be unable to address this issue in 1987. In order to protect the interests of workers and retirees and encourage a stable system of ongoing pension plans and retirement benefits, I urge my colleagues move forward early in 1988 with legislation designed to discourage terminations and reversions. We have built an effective and tremendously successful private pension system in this country. As our population ages, we need to continue to do all we can to see that the private programs which supplement our Social Security System will work to meet the income needs of our seniors, today and tomorrow.

PENSION PROVISIONS

Mr. METZENBAUM. Mr. President, I rise to express strong reservations about the pension provisions in this measure. The American Association of Retired Persons, the National Council of Senior Citizens, the AFL-CIO, and the UAW agree with me that the pension provisions fail to fully protect workers and retirees.

Mr. President, current law is inadequate to protect the 38 million Americans in defined benefit pension plans. Pension funds have been turned into corporate piggy banks. Billions of dollars have been removed from pension plans by so-called reversions. And in the process workers and retirees have lost retirement security. An internal Labor Department study concluded that workers and retirees lose as much as 45 cents of every pension dollar promised.

Those who build a company deserve better.

The Senate Labor Subcommittee first conducted a hearing on this subject on April 4, 1984. At that time we heard from a panel of retirees who described in detail the suffering occasioned by these terminations.

I recall the testimony of Mr. Jean Bush. When he retired he was senior vice president and on the board of directors at Raymond International. He testified that 51 percent of Raymond's retirees were getting less than $1,800 a year. In combination with Social Security many were left with incomes below the poverty level. He testified as follows:

> I am outraged to learn that Raymond International intends to terminate its pension plan without so much as a thought about the welfare of its retirees. I see no justification for terminating the plan in the first place. But then to have them take back the [$30 million in] so-called surplus assets, caused by high interest rates and other factors, is unconscionable—especially since they intend to use the money to pay back loans borrowed for the leveraged buyout. My understanding of ERISA is that the money contributed into the fund is to be invested solely for the benefit of participants and beneficiaries, not for the benefit of a few top company executives * * * there is no question that the money in the pension fund was never intended to be used by a few top executives in the company to repay loans made for their own selfish interest. It was meant to secure our future.

Earlier this year the Senate Labor Subcommittee conducted yet another hearing on this subject. And again we heard from workers and retirees. We heard about a North Carolina company which wanted to take $20 million out of its plan to finance a merger. A company which is paying a pension benefit averaging $61 a month.

This company actually pledged its pension assets to the banks who financed the merger. But it wanted to break its pledge to provide a decent standard of living for its retirees.

Mr. President, pension terminations are a substantial and growing problem. At the first hearing in 1984, I expressed shock that $2.2 billion had been—or was in the process of being—grabbed out of pension plans. Today 3½ years later, $16 billion is gone.

If we do not act now the remaining $218 billion in surplus assets may very well disappear as well.

Mr. President, the Senate and House Labor Committees attempted to put some curbs on the practice—to deter pension terminations. The committee provisions would have allowed companies to remove excess pensions assets without terminating their pension plans, but only after leaving a 25-percent safety cushion behind. This withdrawal provision was recommended by the administration.

In the event that a company decides to terminate the plan, the safety cushion amount would increase the benefits of workers and retirees. This pro-

vision ensures that there is no financial incentive to terminate a plan to obtain a larger reversion than available by withdrawing the excess. In addition, it more fairly allocates the surplus between the company and those who worked to build it.

Finally, it prevents companies from terminating one plan to remove the surplus, while maintaining other plans which are underfunded. This provision was also recommended by the administration.

Mr. President, the conference report strikes these provisions leaving only current law—a set of rules which are totally unfair and inadequate.

But do not listen to me. Listen to the Secretary of Labor.

On March 24, the Secretary of Labor testified before the Labor Subcommittee that current law does not properly protect retirees and workers. He pointed to the fact that under current practice employers can strip every dime of excess assets from their plans.

He testified that:

I think it has become fairly obvious that requiring employers to terminate their pension plans in order to recover assets well in excess of those needed to maintain proper funding is inconsistent with a stable and secure pension system. There is concern that the plans, having been stripped of all their assets in excess of termination liabilities, might not have sufficient assets to maintain sound funding during an economic downturn. Furthermore, without a cushion of assets plan sponsors will be less likely to increase benefits or grant cost-of-living increases to employees.

Mr. President, there are those who argue that the surplus assets all belong to employers. They say sharing the surplus bestows a gift on workers and retirees.

How absurd.

Let them tell the Raymond retiree who is living below the poverty line that a share of the $20 million in pension assets management used to finance a leveraged buyout would be a gift. Or tell that retiree in Cornelius, NC, who is living on $61 a month that another dime amounts to a gift.

Mr. President, it is not absurd, it is demeaning and degrading to the working men and women of this country.

There are those who claim employers are liable for funding shortfalls and, therefore, should have the rewards of favorable plan investment performance. They say they bear all the risks, so they should reap all the windfall. What they forget is that workers and retirees also shoulder the risks of poor plan performance. Just ask a retiree from LTV, AMI, or Wheeling-Pittsburgh Steel whether the worker bears any risks of poor performance. Many of these workers and retirees have lost substantial benefits when their pensions were terminated.

There are those who argue that a worker should get what he or she was promised but no more. But what is promised? I believe that what is promised is a standard of living at retirement, not a pension benefit based on the moment in time the employer decides to terminate a plan. In fact, the law requires plans to be established with the intention that they remain permanent. In addition, I would point out that pensions are deferred wages. Employees agree to compromise on current wages in exchange for a solid reliable pension in the future. Employers cannot be allowed to renege on their end of the bargain.

In many ways I believe that the Labor Committees should have gone further. But I believe that the Labor Committee rules struck a balance much fairer than current law. By deleting these sections we are left with current law—which the Secretary of Labor has testified does not adequately protect retirement security.

Mr. President, I believe the provisions should have been kept. But the tax writing committees insisted that they be removed—and they prevailed.

I would like to ask the chairman of the Finance Committee for his views regarding the prospects for action on this issue next year.

Mr. BENTSEN. I appreciate the concerns of the Senator from Ohio on the matter of excess assets in defined benefit retirement plans. I know that the Senator, as chairman of the Labor Subcommittee of the Labor and Human Resources Committee, has devoted considerable attention to this matter.

I know that the Senator, in his present capacity of acting in the place of the chairman of the full Labor Committee, had planned to seek further conference action regarding pension terminations. I now understand, following discussions among the two of us and others, that the Senator is willing to step back from those efforts at this time, in order to help the Senate reach a conclusion in its deliberations on the reconciliation bill.

The Senator from Ohio has made forceful arguments for the concept of sharing excess pension assets with employees when a pension plan is terminated. I agree with the Senator that, under certain circumstances, workers and retirees should share in a portion of the excess assets.

I assure the Senator from Ohio that I will be pleased to work with him through our committees to advance legislation early next year that would address the issues involved in pension terminations, including the issue of employees' sharing in the reversion of excess assets.

ERISA PENSION SECURITY

Mr. BUMPERS. Mr. President, the practice of "terminations for reversions" of healthy defined benefit employee pension plans has dramatically escalated since 1980. Over 1,000 plans have been terminated and $15 billion recaptured by employers. Mr. President, I do not believe that the drafters of the Employee Retirement Income Security Act of 1974 foresaw that the magnificant new law they were developing would be abused by the loophole that allows these terminations.

I am very concerned that we have not amended ERISA to deal with this very serious problem. I know that the issue is a complex one and that meaningful and thorough solutions may be difficult for both Houses to agree on. Nevertheless, it is clear that our inability to act is hurting hundreds of thousands of employees and retirees. I commend those Members of the Senate and House of Representatives who are searching for solutions to protect these persons, and I urge the appropriate committees to seriously consider this issue early next year. I hope we can enact correcting amendments to ERISA at the earliest opportunity next year.

CURRENT LAW REGARDING THE TERMINATION OF OVERFUNDED PENSION PLANS AND THE RECOVERY OF EXCESS ASSETS

Mr. MOYNIHAN. Mr. President, I rise today to congratulate my colleagues on the budget reconciliation conference committee for taking important steps toward securing the economic stability of the Pension Benefit Guaranty Corporation [PBGC], which insures the benefits of millions of the Nation's participants in defined benefit pension plans.

Unfortunately, the conferees could not reach an agreement on proposals to strengthen a major weakness of current law regulating pensions: the termination of overfunded pension plans and the reversion of excess assets.

Under current law, no withdrawals by employers are permitted from ongoing pension plans. However, employers may terminate plans and keep assets that remain after promised benefits to employees are taken into account, minus a 10-percent excise tax.

Until 1980, terminations of overfunded plans were rare. That year, only 9 plans involving $18 million in assets were terminated. But last year, employers terminated 577 plans with nearly $5.7 billion in assets. Since 1980, over 1 million participants of defined benefit plans have been affected by such plan terminations.

Employers have terminated defined benefit plans not for the good of their employees, but to recapture appreciated assets. These assets are used for corporate takeovers or to buy new plants. They are not used to benefit retiring employees.

Typically, once excess assets are stripped from a plan, a new defined benefit plan is established. Invariably, the new plan is not funded as well as the old one. These new plans, therefore, are less able to sustain funding during periods of economic distress.

And because the new plans do not have surplus assets, employers are less likely to grant benefit increases.

Clearly, employers should not be encouraged to terminate plans to get at excess assets—it is not conducive to the maintenance of a sound pension system. The recent stock market plunge should serve as a reminder that even overfunded plans may quickly lose a substantial portion of their value overnight. I, therefore, commend my colleagues, Senator LLOYD BENTSEN, chairman of the Senate Finance Committee, and Senator HOWARD METZENBAUM, chairman of the Senate Labor and Human Resource's Subcommittee on Labor, for making a commitment to review and revise current law regarding the termination of pension plans and the reversion of excess assets in the second session of the 100th Congress.

REDIRECTION OF THE NUCLEAR WASTE PROGRAM

Mr. JOHNSTON. Mr. President, the conferees on the budget reconciliation bill have reached an agreement that will redirect the Nation's program for the management of nuclear waste along the lines set out in S. 1668, the bill reported by the Committee on Energy and Natural Resources on September 1, 1987. Although this redirection is being enacted as part of title V of H.R. 3545, the budget reconciliation legislation for fiscal year 1988, the legislative history of the nuclear waste provisions is that of S. 1668.

This redirection will move the program forward, so that its goal of safe, permanent isolation of nuclear waste under Federal auspices can be achieved. There will be significant cost reductions—at least $4 billion.

The bulk of these savings will result from concentrating our efforts to develop a deep geologic repository on a single site, rather than on three sites as required under the Nuclear Waste Policy Act of 1982. S. 1668 provided for a selection of a preferred repository site by the Secretary of Energy by January 1, 1989, and a phasing out of site characterization activities at the remaining two sites. The conference agreement selects the Yucca Mountain site in Nevada as the preferred site and directs that siting activities in Texas and Washington State be phased out in an orderly manner and terminated within 90 days. While it is not specifically required by the agreement, it is my hope that DOE will report to Congress at the end of that 90-day period and provide an inventory of the work and contracts phased out at each of these sites and any nonsite specific activities that are planned to continue.

The House conferees insisted on the selection of the Nevada site by Congress in the compromise legislation. In the Senate, we had retained the process of selection by the Secretary of Energy based on scientific information gathered and analyzed by the Department of Energy [DOE] under the scrutiny of the Nuclear Regulatory Commission and the National Academy of Sciences. The House approach greatly simplifies this process. I believe that this simplication should render moot the litigation that currently challenges DOE's siting decisions in the repository program. S. 1668 contained a provision explicitly preserving pending litigation. This provision was dropped out by the conferees, however. Now that Congress has made the decisions to proceed with characterization of the Yucca Mountain site and to terminate the second repository program, I believe that the judicial review of the siting decisions in the first and second repository programs should no longer be necessary or appropriate.

The conference agreement also follows the policy set forth in S. 1668 in authorizing a monitored retrievable storage facility as an integral part of the Nation's Nuclear Waste Management System. The MRS can be of great value to the system as a packaging and handling facility and as a source of backup storage capacity in the event that the first-of-a-kind process of developing a deep geologic repository takes longer than DOE anticipates in current planning documents. As a packaging and handling facility, the MRS allows the collection of spent fuel in the eastern United States near the center of gravity of spent fuel production and shipment to the repository in Nevada by unit train. Spent nuclear fuel shipment miles will be reduced by about two-thirds in comparison with a no-MRS Waste Management System under which individual shipments from each reactor site in the east go directly to the repository.

As a source of backup storage capacity, the inclusion of the MRS in the National Nuclear Waste Management System will result in a much more flexible system and will permit early hands-on experience with spent fuel management. Accepting spent fuel at an MRS will also mean that staff at DOE responsible for repository development will be able to concentrate on repository work in a way that is uncomplicated by waste acceptance issues.

The House conferees, it is fair to say, do not share the Senate's view of the value of the MRS to the Nation's nuclear waste management system. House conferees expressed deep concern that an MRS could become a substitute for the deep geologic repository itself. This has never been the intent of the Senate, as we have said many, many times. The MRS is a part—a very important part—of the repository program.

At the insistence of the House conferees, the compromise legislation contains several unfortunate and unneeded restrictions on the MRS. These restrictions will necessarily reduce somewhat the contribution to the program that the MRS will be permitted to make. I expect that the effect of these restrictions will be studied and evaluated objectively by the MRS Commission that is retained in the compromise from the Senate bill. The Commission should examine how the MRS can contribute to the Waste Management System both with and without the restrictions, so Congress will more fully appreciate the value of the MRS. In determining whether an MRS should be a part of the Nation's Nuclear Waste Management System, the Commission should look at both a constrained and an unconstrained MRS. The expenditures of the MRS Commission will be paid for out of the Nuclear Waste Fund.

One of the restrictions added at the insistence of the House conferees makes it so that DOE may not formally select an MRS site until after completion of site characterization of the Nevada site, at the time at which the Secretary of Energy recommends to the President a site for development as a repository. According to DOE's current schedule, that will result in formal site selection in 1994.

It is unfortunate, in my opinion, that the House conferees insisted upon delaying formal MRS site selection until the mid-1990s. However, the provisions of the conference agreement will allow the site survey and evaluation to proceed after June 1, 1989, the date for submission of the MRS Commission report. As part of that site survey and evaluation, DOE will be able to gain access to any of the sites surveyed in order to obtain data and information sufficient to support an MRS license application to the Nuclear Regulatory Commission. This provision of the agreement will allow DOE to conduct the necessary site-specific work and to gather the essential site data prior to the formal selection and designation of an MRS site and, hence, minimize the time between the selection of a site and submission of a license application to NRC. Therefore, there should be no significant time lag between these two milestones.

One of the other restrictions added at the insistence of the House conferees, would prohibit continued construction of an MRS or acceptance of spent fuel at such a facility if a repository license is revoked by NRC or if construction of the repository is terminated. It should be understood, however, that revocation of the repository license or termination of repository construction is a high threshold. This restriction is not intended to allow suspension of MRS construction or acceptance of spent fuel simply because of a temporary interruption in repository construction. This restriction is intended to suspend MRS construction

or acceptance of spent fuel only in the event that there is a serious threat to continued repository construction.

The specific statutory language of this provision is that MRS construction or acceptance of spent fuel at an MRS will be prohibited if repository construction "ceases." It is useful to note that the definition of cease is "discontinue" or "put to an end." Cease does not mean to suspend or halt temporarily. Therefore, it should be clear that this restrcition of MRS construction or operation should only be invoked in the event that there is a permanent end to repository construction.

The conference agreement also follows the policy set forth in S. 1668 relating to benefits for a State hosting a repository or MRS. S. 1668 provided a benefits agreements between DOE and a host State, by which the State would receive up to $100 million per year for hosting a repository and up to $50 million per year for hosting an MRS. In order to receive those benefits, the host State would have to waive its right to veto the siting of the facility.

The amount of money available to a host State was reduced substantially in the conference agreement at the insistence of the House conferees. The process, however, remains the same. In order to receive the benefits under such an agreement, the host State must waive its veto. The conferees agreed that benefits to a host state are appropriate, but it must be a cooperative effort if such vast resources are to be given as unrestricted benefits.

Finally, the conferees agreed to include provisions offered by the House to appoint a negotiator to negotiate the terms and conditions under which a State or Indian tribe would be willing to host a repository or MRS, in lieu of the benefits provided under a benefits agreement. The negotiator's efforts are independent of, and would proceed in parallel with, DOE's efforts to site a repository in Nevada and an MRS facility. Any agreement worked out by the negotiator would have to be enacted into law by Congress. Although it is not explicitly provided in the conference agreement, it is my belief that a negotiated agreement enacted into law by Congress would have to contain additional assurances that there would be a cooperative effort between the State and DOE toward siting a repository or MRS. I would assume that this would include the dropping of any pending litigation brought by the State against DOE.

In spite of my concerns about these unnecessary restrictions on the MRS, I am pleased that agreement has been reached. Agreement on this nuclear waste legislation is a major accomplishment. This redirection will move the nuclear waste program forward and allow significant cost reductions. This agreement is the result of an entire year's effort on the part of many people. In that regard, let me especially thank my colleague from Idaho and ranking minority member on the Energy and Natural Resources Committee, Senator McCLURE, for his tireless efforts toward this end.

SALE OF BUREAU OF RECLAMATION LOANS

Mr. McCLURE. Mr. President, I would like to address a few questions to the distinguished chairman of the Committee on Energy and Natural Resources.

Mr. Chairman, the Senate version of the bill before us contained language authorizing the Secretary of the Interior to sell various Bureau of Reclamation loans made pursuant to the Distribution Systems Loans Act, the Small Reclamation Projects Act, and the Rehabilitation and Betterment Act. The House bill had no such provision and the conferees agreed to a modification of the language in the Senate bill.

I think the language of the amendment and the explanatory statement on the part of the managers is clear, but I would seek further clarification.

Mr. President, subsection (b) of section 5301 of the conference agreement specifically provides that nothing in the section shall authorize the transfer of title to any federally owned facilities funded by the loans specified in section (a) of this section without a specific act of Congress. I would ask the chairman if it is the intent of the conferees to diminish in any way the authority that the Secretary of the Interior presently has under the Distribution System Loans Act to transfer title to the borrower when the loan has been repaid?

Mr. JOHNSTON. It is not the intent of the conferees that this prohibition restrict the authority of the Secretary of the Interior which he may enjoy under current law. The Distribution System Loans Act authorizes the Secretary of the Interior to require, as conditions to any such loan, that the borrower transfer certain lands or interests in lands as well as distribution works constructed in whole or in part with moneys lent under the act. The act provides that when full repayment has been made to the United States the Secretary shall retransfer to the borrower title to the works and all lands and interests in land which were transferred by it to the United States.

I would advise the distinguished ranking member of the Committee on Energy and Natural Resources that the authority of the Secretary to retransfer title pursuant to the Distribution System Loans Act is not affected by enactment of the conferee's recommendation. It is in fact a transfer of title which is authorized by a specific act of Congress as required in the conference agreement.

Mr. McCLURE. I thank the chairman.

In regard to the conference agreement and the Rehabilitation and Betterment Act, I would note for the record that the conference report on the Reclamation Reform Act of 1982 recognized that rehabilitation and betterment loans are considered as operation and maintenance costs and that the conferees did not intend to imply that either existing or future rehabilitation and betterment loans would subject districts to the extensions of the application of the acreage limitations after repayment of contruction charges. Does the conference agreement to H.R. 3545 alter in any way the determination made by the committee of conference on the Reclamation Reform Act regarding the applicability of acreage limitations and loans made pursuant to the Rehabilitation and Betterment Act?

Mr. JOHNSTON. The conference agreement does not.

Mr. McCLURE. I thank the chairman.

Mr. President, I would first like to speak to the provisions of the reconciliation package that deal with the future course of this Nation's Nuclear Waste Disposal Program. These provisions are found in subtitle A of title V of the budget reconciliation bill.

The progression of events leading to these final provisions are truly remarkable. At times, even I questioned the likelihood for survival of this piece of legislation throughout this wrenching legislative process. I would not have placed much hope in the bill's survival even as recently as the middle of last week. But thanks to the relentless staying power of the many players in this process—not the least of whom is the distinguished chairman on the Energy and Natural Resources Committee, without whose vision and determination we would have never reached this point—we can each take pride in the fact that we have produced a surprisingly good end product.

While the Committee on Energy and Natural Resources cannot claim total victory nor take total credit for this product, we can nevertheless take heart in the fact that the bulk of the legislative events that have yielded this result originated from our committee's intensive labors.

I remind my colleagues of the fact that the Committee on Energy and Natural Resources did not take the nuclear waste issues lightly over this past year. We faced the issues head on, starting very early in the session. We scheduled so many hearings on this issue that at times I thought we would be accused of overkill. And then, as the fruits of those endless hours of hearings were finally translated into legislative initiatives, I was very proud of the outcome. Then later, as we availed ourselves of every opportunity to present this legislation

to the full Senate for consideration, I was grateful that the chairman had opted for a full-court press. Ultimately, our ideas prevailed in the Senate, despite the efforts of some members who would have preferred to see the whole Nuclear Waste Program brought to its knees.

Things were on no firmer ground when dialog first began with our House counterparts. Since corresponding legislation in that body was much less mature, I think only the House Interior Committee had reported a measure, the contents of which took a totally different tack than ours, there were serious doubts in many Members' minds as to whether the House was prepared to deal with this issue at all, especially on such short notice. I say that somewhat facetiously because no one who has followed this issue over the last 5 years could deny the fact that the Nuclear Waste Disposal Program is in dire need of resuscitation. No one could have ignored the labors of our committee, as well as other committees of Congress, in trying to come to grips with the problems. And certainly no one could honestly say that the program would have been able to survive another year without these attendant fixes.

All this is a very elaborate way of saying that the fate of this legislative initiative was inevitable. The Committee on Energy and Natural Resources deserves most of the kudos, but that is not to say that all the participants don't deserve a round of applause for their perseverance in this effort.

The final product has plenty of fingerprints belonging to the Energy and Natural Resource Committee. We have prevailed in our concepts of single-site characterization, authorization of a monitored retrievable storage facility, and providing incentives to the States that will ultimately host these facilities. We also had no problem convincing the conferees that decisions with respect to a second geologic repository need not be addressed until the year 2010. And finally, everyone agreed with us that independent, prospective review of the program is vital to the ultimate success of the program.

I would be remiss if I did not also address those fingerprints from the Energy Committee's bill that got smudged a little in the process. First, we forfeited our committee's concept of sequential site characterization, wherein it would have been the Department of Energy's decision as to which of the three candidate sites to characterize first. Instead, we ceded to the House conferees' proposal to designate the site at Yucca Mountain, NV, as the host to the Nation's first repository. We also forfeited any further surface-based testing at the other two sites—at Deaf Smith, TX, and at Hanford, WA. Thus, we are on a course where if problems develop in the course of characterizing the Yucca Mountain site, the Department will have no backup options under this substitute provision, other than to make recommendations to Congress on any future course of action, in the hope that Congress acts at that time.

Second, we have had to accept conditional authorization of the monitored retrievable storage [MRS] facility. These conditional provisions relate to certain milestones being met with respect to the Yucca Mountain repository in order for work to proceed at the MRS. While these linkages may be necessary to convince some Members that the MRS will not become a de facto repository, I would have preferred that the linkages be determined by joint agreement between the host MRS State and the Department, rather than by this particular Congress. Nevertheless, in the spirit of compromise, we find ourselves now legislating these linkages up front, in our typically myopic manner.

Thus, an MRS site would not be designated until the Yucca Mountain site is fully characterized, and construction of the MRS would not begin until the Nuclear Regulatory Commission has issued a license for construction at the repository. If, at any time, the repository license is revoked by the NRC, activities at the MRS would have to be suspended until such time as the repository license is reinstated. And if construction activities at the repository ceased altogether—and by that, we mean that the construction terminates through some irrevocable decision on the part of the NRC or the Department of Energy who for whatever reasons, determine that the Yucca Mountain is no longer fit to serve as a repository site—then the MRS would have to suspend its operations at that point.

It is important to reiterate and emphasize that the bill language in no way requires suspension of activities at the MRS—including the receiving of waste shipments—while unforseen, and minor, short-term occurrences such as labor strikes, weather, delayed delivery of parts, products or machinery, among others, temporarily requires suspension of work at the repository. It would be foolhardy and wasteful to maintain such a stop-start schedule, as clearly seen by the conferees in the passage of this legislation in large part to save the taxpayers from the unnecessary spending of such large amounts of funds as previously proposed for our Nation's Nuclear Waste Program.

Finally, this conference substitute has the undeniable, clearly recognizable fingerprints of my friend the distinguished chairman of the House Interior and Insular Affairs Committee, without whose support we would not have arrived at this point. In particular, his provisions with respect to the creation of the Office of Nuclear Waste Negotiator, and the establishment of a Nuclear Waste Technical Review Board, will go a long way toward assuring the survivability of this program. To Mr. UDALL, I give total credit for these farsighted provisions.

Before yielding the floor, I wish to give particular credit and thanks to my fellow colleagues, the chairman and ranking member of the Subcommittee on Nuclear Regulation of the Senate Committee on Environment and Public Works, for their often spirited participation in this process. Likewise, I would be remiss if I did not give due credit to the committee and subcommittee chairmen and ranking members of the House Energy and Commerce Committee and the House Committee on Space, Science, and Technology, whose productive input has not gone unnoticed by this Senator. Last but not least, I thank the chairman of the Senate Committee on Energy and Natural Resources for his vision and leadership in this challenging task.

I think the Nation will be well served by the fruits of our labors. The final nuclear waste package contained in the reconciliation bill will allow us to put the political issues behind us, and allow the Department of Energy to proceed with a carefully directed program in a cost effective manner, so that the ultimate disposal of this Nation's nuclear waste will be achieved within our lifetimes.

Briefly turning now to another matter, Mr. President, I would like to clarify for the RECORD one aspect of the agreement reached between the House and Senate conferees on the Federal Onshore Oil and Gas Leasing Reform Act of 1987. The statement of managers indicates that no oil and gas leases shall be issued on National Forest System lands reserved from the public domain by the Secretary of the Interior over the objection of the Secretary of Agriculture. The Bureau of Land Management of the Department of the Interior has full responsibility for mineral leasing and supervising mineral operations on 300 million acres of Federal mineral estate underlying other agency jurisdictions, including the Forest Service, and for supervising most mineral operations on Indian lands. The language which the conferees agreed to does not change this responsibility, it merely gives the Secretary of Agriculture the authority to object if he determines that it would be inappropriate for BLM to issue a lease on National Forest System land. Currently BLM and the Forest Service operate under a memorandum of understanding when making leasing decisions. As indicated in the statement of managers, the ap-

91-059 O-89-32 (Pt. 26)

proved language is not intended to result in duplication by the Department of Agriculture of the Department of the Interior's administration of oil and gas leases, nor is it intended to preclude the current consultation process between the two Departments.

Additionally, I would like to point out that the conferees agreed to language which requires the Secretary of the Interior or the Secretary of Agriculture, as appropriate, to regulate all surface disturbing activities conducted pursuant to leasing. Again, this provision is not intended to transfer the authority of the Secretary of the Interior to manage the mineral resources on Forest Service lands to the Secretary of Agriculture. The language is intended to continue the current practice by which the Secretary of Agriculture exercises some management of the authority of the Secretary of the Interior pursuant to memorandum of understanding. Nothing in this act changes the basic authorities or responsibilities of the two Secretaries.

NUCLEAR REGULATORY COMMISSION USER FEES

Mr. SIMPSON. Mr. President, there are a couple of things that I would like to say by way of clarification about the provision in this legislation authorizing the Nuclear Regulatory Commission to increase its user fees for fiscal years 1988 and 1989. The conferees on this issue—the Senate Environment and Public Works Committee, the House Interior and Insular Affairs Committee, and the House Energy and Commerce Committee—took what appears on the face of this legislation to be an unusually contorted approach to increasing NRC's user fees because of the position that we were placed in by the House and Senate Budget Committees and by the Congressional Budget Office "scoring" process. Because of this, I think it would be helpful, particularly for those at the Commission who will be responsible for interpreting and implementing this provision, to explain why we drafted the legislative language the way we did.

First, I should explain what this provision, section 5601, actually does: This provision authorizes the Commission to collect increased user fees in an amount up to 45 percent of the agency's budget for 2 fiscal years—fiscal years 1988 and 1989. Under this provision, fees can only be assessed where the charge is reasonably related to the regulatory service provided by the Commission and fairly reflects the cost to the Commission of providing such service. After fiscal year 1989, the Commission's authority to collect fees reverts to the existing level of 33 percent of the agency's budget, as provided by the existing authority in section 7601 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

However, we drafted the legislative language of section 5601 the way we did, with the reference of "an additional 6 percent" above the amount authorized by this section—33 percent—and by this year's omnibus continuing resolution—because this was the only way for this provision to be scored by the Congressional Budget Office and by the House and Senate Budget Committees. Briefly, earlier this year, both the House and Senate Appropriations Committees, included language in the energy and water development appropriations bill assuming that the Commission would collect user fees in fiscal year 1989 equal to 50 percent of its budget—an assumption that, even though it provides no legislative authority for the Commission to actually collect such fees, was scored by the Congressional Budget Office as actually generating revenues. This, in turn, assisted the Appropriations Committees in their efforts to meet their subcommittee allocations. This same approach was then picked up in the continuing resolution—House Joint Resolution 395.

Once this earlier scoring decision was made, the Congressional Budget Office and the House and Senate Budget Committees were unwilling to score the authorizing committees for any increase in user fees from the existing 33 percent up to 50 percent—because the Appropriations Committees had already been given credit for increased fees up to this level. It was a truly absurd interpretation of the scoring process, Mr. President, and a distortion of the rules in a way that I do not think was intended by the Congress when it formulated the rules governing reconciliation. I should say, at this point, Mr. President, that I view this practice to be an egregious abuse of the budget process and one of the reasons the American public is so skeptical of our ability to reduce the Federal deficit—the Congressional Budget Office and the House and Senate Budget Committees gave the Appropriations Committees credit for an assumption that NRC fees would be increased, even though the language does not authorize the Commission to collect the additional fees, and then they turn around and deny the authorizing committees the credit for increasing NRC fees from 33 percent to 50 percent, where our language would actually have the legal effect of authorizing the NRC to increase fees by this amount.

Therefore, to ensure that we were actually given "credit" for the fees authorized by section 5601, we had to include language referring to "an additional 6 percent" above the 33 percent in the existing section 7601 of the Consolidated Omnibus Budget Reconciliation Act and the continuing resolution—which, since the user fees language in the continuing resolution is simply an assumption with no legally binding effect, has the effect of increasing fees to 39 percent. This then enabled the Congressional Budget Office and the House and Senate Budget Committees to score us for achieving $25 million in additional revenues. Moreover, since the conferees had agreed to increase NRC fees to the Senate-passed level of 45 percent, we then included language stating that the fees shall be no "less than a total of 45 percent."

To the untrained eye, it would appear much simpler if we had just said that NRC was authorized to increase its fees to 45 percent of its annual budget. But that would not have been scored as generating revenues, since the appropriations language had already been credited for the assumption that fees would be increased to 50 percent. In short, the Budget Committee told us that they were unwilling to "double count" the two provisions—even though our provision, and not the appropriations assumption, had the legal effect of authorizing the NRC to increase its fees. As a consequence, Mr. President, we were forced to take the long way around this barnyard by including the reference to an "additional 6 percent" for scoring purposes, but then actually setting the limit for fiscal years 1988 and 1989 at 45 percent. In short, this contorted and convoluted approach is an authorization for the NRC to increase its fees to 45 percent of its budget for fiscal years 1988 and 1989, after which the fees will revert to the existing level of 33 percent.

GAO STUDY OF THE FEDERAL FINANCING BANK

Mr. DOMENICI. Mr. President, at my request, the Agriculture Committee conferees included a provision in this bill requiring the General Accounting Office to conduct a study of all Federal financing bank lending. I want to thank the distinguished chairman and ranking member of the Senate Agriculture Committee for including this provision in the conference agreement.

I think we are all frustrated by the complicated nature of the refinancing or prepayment issue. We have spent a great deal of time struggling with REA refinancing, FMS refinancing, and other proposals to waive FFB prepayment premiums.

My intention in adding this provision to this bill is that GAO make a complete review of all FFB lending and the conditions and procedures for prepayment. In conducting its review and developing its recommendations, I am particularly interested in GAO reviewing the terms for prepayment in private financial instruments. In addition, GAO should consult with private financial experts in reviewing and developing recommendations on this issue for the Congress.

I look forward to reviewing the results and recommendations from this study.

NUCLEAR REGULATORY COMMISSION USER FEES

Mr. SIMPSON. Mr. President, I have just a few brief remarks that I should like to make about the provision in this legislation authorizing the Nuclear Regulatory Commission to increase the amount of fees collected from its licensees. When the Senate Environment and Public Works Committee first formulated its response to the reconciliation instructions that we received from the Senate Budget Committee calling for an additional $150 million in user fees, we as a committee once again rejected the suggestion that the entire burden for collecting this amount should be imposed on the NRC and NRC licensees—an assumption that the Budget Committee had made when it formulated this instruction. Indeed, after considerable discussion of this issue in committee, we reached the conclusion that it was fundamentally unfair to single out a particular activity or a particular agency and require that activity or agency to be responsible for collecting user fees, where there were other comparable regulatory activities or agencies that were not being called upon to make similar contributions. Moreover, we felt that further increases in NRC fees would create the preception, if not the fact, of giving utilities leverage and influence over the NRC.

For these reasons, the recommendations submitted by the Environment Committee to the Budget Committee this year called for what we felt was a well-balanced package of user fee proposals—including a requirement that the NRC collect an additional $50 million in user fees and a requirement that the Environmental Protection Agency collect an additional $40 million in user fees.

The House, on the other hand, once again this year increased NRC user fees by a huge amount—increasing from 33 percent to 100 percent of the agency's budget the amount to be collected through assessments on NRC licensees. And once again, the House flatly refused to consider user fees for other comparable regulatory agencies or activities.

By way of background, Mr. President, last year, when we encountered similar opposition from our colleagues on the House side to including EPA fees as part of the package, we were simply unable to reach an agreement on any increase in NRC or EPA fees—and, as a result, wound up walking away from the negotiating table and reporting back in disagreement. But there were some positive signs in the discussions that the conferees held on the EPA and NRC fee issue last year. Indeed, our House colleagues indicated that looking to EPA for part of the fees made some sense. Unfortunately, they argued, EPA fees were not within the jurisdiction of last year's "subconference"—and could therefore not be included as part of the package.

This year, when the House and Senate Budget Committees began formulating the fiscal year 1988 budget resolution and reconciliation instructions—and presumably had the opportunity to include both EPA and NRC fees—we had an opportunity to revisit this issue, picking up on what I thought was generally favorable discussion of this approach in last year's conference. As I indicated, Mr. President, this is exactly what the Senate did—we included both EPA and NRC user fees. Unfortunately, notwithstanding the favorable comments from our House colleagues last year on the wisdom of including EPA fees, the House this year flatly refused to include any EPA fees. And what did they do instead? They turned around and increased NRC fees to 100 percent of the agency's budget—an amount that far exceeded the revenues that the reconciliation instructions directed the House authorizing committees to achieve.

It is for this reason, Mr. President, that the Senate flatly refused to budge this year on increasing NRC fees beyond the amount provided for in the Senate-passed reconciliation bill—45 percent of the agency's budget. Moreover, we limited the provision in this legislation to fiscal years 1988 and 1989—after which the NRC's authority to collect fees reverts to the existing level of 33 percent of the agency's budget.

I think it is fair to say, Mr. President, that the Senate Environment Committee has reached the limit of its willingness to consider any further increases in NRC fees unless we first see solid evidence that the Congress—and particularly the House and Senate Budget Committees and the House committees with jurisdiction over EPA fees—are willing to impose comparable regulatory fees on comparable regulatory agencies, such as EPA. Unfortunately, at this stage, we simply see no evidence of any willingness to do that, Mr. President. So I say to my colleagues in the House that the negotiations this year on the NRC fees are only a sign of more to come next year if we see no willingness to move on EPA fees—the Environment Committee, I hunch, will simply refuse to increase NRC fees at all unless we see solid evidence that the Congress is moving forward with comparable regulatory fees for other comparable regulatory agencies. In fact, I wonder if I might ask the chairman of the Environment Committee, Senator BURDICK, if he shares that view?

Mr. BURDICK. I certainly share the frustration that the Senator from Wyoming has described with regard to the unwillingness of the House to consider EPA fees—and the disproportionate increases in NRC fees that the House at the same time proposes every year. I can also say, Mr. President, that as chairman of the Environment and Public Works Committee, I do not intend to support any increase in NRC fees on any legislation until comparable fees for comparable regulatory agencies, such as EPA, are required by Congress.

Mr. BREAUX. I would add my voice to those sentiments, Mr. President. I firmly share the view that we have asked too much of the Commission by comparison to what we ask of other comparable regulatory agencies and this imbalance needs to be redressed.

Mr. SIMPSON. I thank my colleagues for those assurances. And I think the message is clear—the leadership of the Senate Environment Committee and the Subcommittee on Nuclear Regulation have reached the limit of our patience and willingness to consider any further increases in NRC fees until we see firm action by the House on fee proposals for comparable regulatory agencies such as EPA.

Mr. HEINZ. Mr. President, today I will vote, despite reservations, in favor of the conference agreement on budget reconciliation. At the outset, I would like to review our present situation. The deficit for fiscal year 1987 was a significant improvement over fiscal year 1986—down to $148 billion from the all-time high of $220 billion, a drop of 33 percent. Unfortunately, without further action, the deficit will begin its ascent once more in fiscal year 1988, rising to $163 billion.

The markets have already told us what they think of that prospect. On October 19, the stock market lost 22 percent of its value in a 508-point plunge. The world financial community has signaled very clearly that it is imperative for this Congress to act to reduce the deficit beyond the Gramm-Rudman-Hollings target levels, and begin to put our fiscal house back in order.

The conference agreement does provide for further deficit reduction. If all savings are ultimately achieved, the agreement provides $30 billion in fiscal year 1988 savings and $45 billion in fiscal year 1989 savings. These levels of saving will help to keep the deficit on the downward trend. My concern, however, is that the agreement may have relied too heavily on new taxes, $9 billion in fiscal year 1988 and $14 billion in fiscal year 1989, and not enough on spending restraint. At the same time, the conference agreement is rife with one-time savings and gimmickry that do not contribute to long-term deficit reduction. As I stated when the Senate considered the budget resolution last spring, the Government continues to fund all manner of subsidies for profitable private en-

terprise, from water subsidies to power marketing. It is my hope that these activities will, at some point, be asked to make their contribution to deficit reduction.

Given the recent mandates by the global markets for the United States to exercise greater fiscal responsibility, we had no options but to increase revenues, as a part of an overall package of deficit reduction. The fundamental question that the Finance Committee had to address was whether this demand for new revenue was to be met by overall rate increases or through selective modifications of the Tax Code. Increased marginal tax rates would represent an abrogation of our promise to the American people, made in the Tax Reform Act of 1986. So our sole option was the selective modifications approach.

The raising of revenues requires hard decisions. Absent flagrant abuse of the Tax Code, the decision to raise corporate or individual tax liability must be made with great caution. Further, one must assure that the tax system is equitable, market sensitive, and not the cause of competitive disadvantages. I believe that the final product of the conference committee is a responsible tax package. We exercised great care to ensure that no segment of the economy bore a disproportionate share of the burden, that competitors in similar markets were treated in an identical manner, and that essential tax benefits to sensitive segments of our economy were not eliminated.

Unlike the House bill, the Finance Committee's proposal and the final compromise package are well thought out, and will not create major disruptions of, or chaos in, the financial markets. In fact, the up market of this past Friday—immediately after the conference committee reached agreement on revenues—demonstrates the confidence that investors are placing in the agreement.

Furthermore, the House bill would penalize industry through an alternative minimum tax increase. The conference committee package wisely rejected such a provision. Similarly, the House bill would have impaired the ability of municipalities to sell their tax exempt bonds. The conference committee package contains no such provision. Again, the House bill would have prevented our troubled savings and loan industry from becoming financially sound. The conference committee package contains no such provision. These are but some of the numerous examples that I could give of the various problems with the House tax bill. Fortunately for all, these provisions are not in this conference package.

It is especially important that this conference report contains two items that I have been urging action on for some time and prepared for repeatedly during our Finance Committee caucases and during the conference: Revision of the calendar year provision and repeal of the phantom income provision. Both of these required action this year, and I am pleased that they are a part of the legislation.

Mr. President, I want to congratulate the chairman of the Finance Committee, Senator BENTSEN, on the handling of a very difficult task. It was a pleasure to be a part of the conference committee, and I look forward to future conferences.

In closing, Mr. President, despite several reservations I can support the conference agreement. It is the only broadly acceptable means of reducing the deficit beyond the Gramm-Rudman-Hollings targets, and I compliment my colleagues for their hard work on the agreement. I urge its adoption as the first step toward a sound fiscal policy.

Mr. CONRAD. Mr. President, the Congress has struggled for most of this year to produce a comprehensive plan for reducing the deficit. Inherently, this was a difficult job: for most of the year, the administration and the Congress were at a total impasse over the budget. Even once the stock market crash heightened the collective sense of urgency, negotiators had trouble—and experienced many setbacks—in their attempts to strike a deal. Our negotiators deserve praise for their perseverance and tireless efforts to obtain a compromise, which the House and Senate have worked very hard to implement. Still, it's no surprise that few are elated with the result.

I realize that the conference reports on the reconciliation bill and the continuing resolution represent the only alternative to a sequester. Without doubt, the pattern of cutbacks under a sequester would have many adverse—and arbitrary—results. Similarly, I did not expect to be enthusiastic with all major features of measures as sweeping in scope as the two now before us.

As my colleagues know, I have pressed throughout the budget process for a more ambitious approach to deficit reduction. The savings achieved through reconciliation and the continuing resolution—over $30 million—are simply not enough to demonstrate real progress in bringing the deficit down. Even with these two measures in place, the fiscal 1988 deficit will be $150 billion—above the $147 billion level achieved in fiscal year 1987. To prove to the American public, the financial markets, and the rest of the world that we're serious, I believe this country has to show that the budget deficit is declining steadily, on a year-to-year basis.

In the Senate, I supported a freeze on both discretionary spending and the income tax rate structure. Such a plan would have reduced the deficit to $138.6 billion in fiscal 1988. It is very unfortunate, in my view, that the administration and the Congress were willing to settle for substantially less.

In general, I consider the spending levels in the continuing resolution to be too high. But in certain areas, such as defense, the absence of restraint is particularly glaring. The conference report on the continuing resolution provides $291.5 billion for defense budget authority and $285.4 billion for defense outlays. Last year defense outlays were $274 billion.

The continuing resolution will not force the Defense Department to make choices. The strategic defense initiative will receive a total of $3.9 billion—a $300 million increase over fiscal year 1987. Under the resolution, development will proceed on both the rail-based MX and the Midgetman missile, even though the future need to have both is questionable. America cannot afford to continue to say yes to every weapons system. We must enact a budget which forces the Pentagon to prioritize, if we hold out real hope of bringing the budget under control.

On the reconciliation bill, I have strong objections to the agriculture component, for two reasons.

First, the cost of the Farm Program will drop over $10 billion in the next 3 years without any additional changes. It will drop because of target price and other cuts mandated in the 1985 farm bill. I ask my colleagues: how many other programs are scheduled to take that significant a reduction over the next 3 years?

Second, farmers were thrown into an economic recession because of policies designed here in Washington—not because they are poor producers. The policy of tight money combined with massive Federal deficits led to the highest real interest rates since the Great Depression. Those high real interest rates led to an overvalued dollar and a collapse in commodity prices and in exports.

As a direct consequence of those policies, average net farm income per year—adjusted for inflation—dropped 35 percent between the decade of the 1970's and the first 8 years of this decade. The farmers' share of the consumer food dollar has been cut by 50 percent in the 1980's. A recent GAO study found 10 percent of farmers in such trouble that they will go out of business. Another 48 percent are judged to be in trouble with the potential to go under if farm income falls further.

I recognize—and accept—that as part of any far-reaching agreement on the budget, farm programs will be cut. But the cuts required by this package are disproportionately large. And the composition of the cuts in the Senate version of reconciliation would have been

preferable, in my view, to the provisions which emerged from conference. I will, however, vote for reconciliation because the alternative of sequester would be a disaster for farmers.

At the outset of the summit negotiations, I was hopeful that we'd seen the last of business-as-usual attitudes about the budget. I had hoped that the sense of economic emergency would make it possible to achieve a breakthrough, to put together a bold, multiyear plan for reducing the deficit. My vote against the continuing resolution reflects considerable disappointment—and firm belief that we lost a crucial opportunity to solve our leading economic problem.

Mr. DASCHLE. Mr. President, it has been a frustrating year for American farmers. Many of them particularly in my State, looked to 1987 as a year in which Congress would reform farm programs. Some of us fought hard all year for a change in policy that might offer some hope. Economic conditions in farm country may look better, but that's because Government payments disguise the effects of falling market prices. Those of us who have fought for change have been stonewalled by the mindset that what agriculture needs is more grain and lower prices.

Mr. President, American farmers have had enough of both.

Instead of reform, the proposals contained in this budget package are just more of the same. Prices for corn and wheat will continue their downward plunge. We will add to the cuts already scheduled in target prices. The result is lower income for American farmers and more economic hardship for rural America.

The 1985 farm bill made agriculture programs too expensive. Farmers and rural America must depend on Government payments, because the farm bill drives prices downward. Cuts in these payments will be felt deeply. The budget savings required of agriculture could have achieved in other ways, ways that would not have done such tremendous damage to the farm economy.

I realize that these cuts are less harmful than those under the Gramm-Rudman-Hollings sequester. On that point, I commend my colleagues for having reached compromises that will make this budget measure a reality. Nevertheless, I remain opposed to this package because, while we have a compromise, it is an unacceptable compromise for me and for the people of South Dakota.

I would remind my colleagues that even though the farm bill costs more than necessary, spending in agriculture is on a declining path, unlike most other Federal programs. Farm program spending in 1987 is now expected to be $3.3 billion less than in 1986. Spending is expected to fall another $1.5 billion next year. But the administration has demanded that agriculture be cut back even more. It was my goal and hope that budget cuts would be made in a responsible and fair way, but that is not the case in this legislation.

There are parts of the agriculture provisions that I support. The bill incorporates two pieces of legislation that I introduced this year: First, a bill mandating advance deficiency payments for feed grains and wheat; and second, a bill mandating an adjustment in the Acreage Reduction Program for oats. I also support the provisions to limit to 2 percent the adjustments in county loan rates, to protect program payment yields at 90 percent, and to clamp down on schemes to circumvent the $50,000 limit on program payments.

Nevertheless, Mr. President, we are a long way from prosperity in South Dakota and rural America. Farmers' share of the consumer dollar spent for food has been cut in half. Net farm income, adjusted for inflation, has dropped 35 percent in this decade. Ten percent of America's farmers are on the verge of bankruptcy and 49 percent are in precarious financial shape.

This legislation is a big step backward in rural America's long climb back to economic health. For that reason, I must vote against this reconciliation package.

The PRESIDING OFFICER. Who yields time?

The Senate will be in order.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Mexico.

Mr. DOMENICI. I do not think anyone else wants to speak on our side. So I would like, with the minority leader's permission, to yield 3 minutes to myself after which I yield back the remainder of our time.

The PRESIDING OFFICER. Is there objection? The Senator has the right to do this. But he was requesting whether or not there was objection from the minority leader or any others, and the Chair was asking if there was any objection. If not, then the Chair would honor the request of the Senator from New Mexico. The Senator from New Mexico will have 3 minutes and the remainder of the time will be yielded back. The Chair will protect the rights of Senators.

Mr. DOMENICI. I understand our friend from Florida will be the last to speak. He wants 10 minutes?

Mr. CHILES. Not that long.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I want to make a few points.

First of all, there has been discussion around here why did we not opt for a sequester. Actually, we could spend a better part of the evening explaining why we should do that.

Let me try to do it this way. The sequester process, the so-called across-the-board cut, was never intended as fiscal policy for the United States. It was intended as a hammer over our heads to make us do our job in lieu of it.

Since it was that, and nothing more, it is the worst fiscal policy implementation that you could imagine. Items are taken off budget because we want to do it politically. Others are given half a cut. And then you take all the rest off defense and domestic without regard to which ones are needed more than others, and you cut them all, under some strange definition that I guarantee you the authors of Gramm-Rudman-Hollings do not want to be our policy, but they want them to be so bad that we will do something else. That is my first point, and believe you me, had you let those go in, they would not have lasted more than 6 weeks and you would start taking them off with appropriations bills, even with a 60-vote requirement.

Point number two on taxes, the President of the United States sent a budget up here. It had $4.6 billion in taxes. I would hope those who opposed this would go through that item by item as they have this one. On top of it he had almost $7 billion in user fees. Those are taxes, just selective. We ought to go through those item by item tonight for those who think that this revenue package is so onerous and so ineffective. Dollar for dollar we have no more, no less than the President of the United States asked for. That is not to say to my friends who oppose this package on revenue, which I did not draft, that is not to say that they agree with the President. I merely make the point that in terms of an impact on the economy there is not an ounce of difference between the two, be it a positive or negative impact. That is point number two.

And my last point is Senator GRAMM from Texas says that we ought to live up to this and that he wants to make sure we do not have to have a sequester next year because he is worried about some of this being authentic. I can assure him with as much knowledge as I have and as much certainty as I can tell to the Senate unless there are economic changes which he is fully aware of, if the economy goes down or inflation goes up or interest rates go skyrocketing we will meet the targets in next year under Gramm-Rudman-Hollings by following the game plan provided here. He knows what I am talking about. It will not be smoke and mirrors that will break it in the second year. It will be economic changes that we surely cannot legislate here tonight.

I believe this is a bonafide bipartisan effort on the part of Congress along with the President and that ought to

be pretty meaningful in terms of these times.

I close by saying to those who are skeptical we would not be in fiscal trouble if the domestic accounts appropriated grew by 2 percent nominal each year. We would not be in any trouble. That is how much they grow under this. If defense grew by 1.7 percent nominal we would not have any fiscal problems. That is what it grows in 1988 over 1987.

I think those are two pretty good success stories. When coupled with the other entitlement savings, it is a pretty good proposition for us to adopt.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, at this point, I wish to address the subject of the submission of the President's budget. We had set a date of January 25 in the Senate bill.

I have received a letter from the Director of the Office of Management and Budget advising me that the President will be unable to submit his budget to the Congress before February 16.

It is true that the existing law provides for the President to submit his budget by January 4. It is also true that the Senate passed a revision of that requirement for 1988 that would have moved the date for the President's budget to January 25.

Even so, OMB has some good reasons for why they cannot make these deadlines. First and foremost, we are very late in the year with this reconciliation bill and the coming continuing resolution. Second, the Secretary of Defense tells us that he intends to conduct a top-to-bottom review of the Pentagon in an effort to bring into line in effect the Pentagon budget request with the caps and make realistic savings and at the same time realistic decisions as to what we can actually afford and the kind of best defense that we can afford within that money. That will be a difficult task at best, but it certainly is going to require some time.

Of course, we do not want to delay the budget process any more than is absolutely necessary, but if the President's budget is delayed, we anticipate that Congress will have to adjust its schedule in response. We would anticipate that the schedule will be approximately as follows:

The President would submit his budget on or about February 16, 1988.

Committees will submit their views and estimates to the Budget Committee on or about March 15.

The Senate Budget Committee will report its budget on or about April 29.

Congress will try to complete action on the budget resolution by about May 27 and Congress will try to complete action on the reconciliation bill next year before July 1.

Mr. BYRD. Mr. President, let me say that the chairman of the Budget Committee has presented what I think is a reasonable realistic schedule for next year. I do not relish any delay in the complex budget process, but the lateness of our action on the reconciliation bill and continuing resolution leaves us with little choice. However, I will say to my colleagues that I will do my best to ensure that this schedule is met so that there will be no further delays in the budget and appropriations process next year.

Mr. CHILES. Mr. President, at this time I want to point out the good work that a number of our committees did and thank those people. I especially want to thank the chairman of the Finance Committee, who was first and foremost in trying to get his portion of the reconciliation, his portion of the savings; and certainly to Senator PACKWOOD that was on the committee. But Senator BENTSEN did a yeoman's job all the way through, taking on many, many hard tasks. Also, of course, there were other members on the Finance Committee that took on some very hard topics, Senator MITCHELL, Senator CHAFEE, and a number of others, and we certainly give our appreciation to them.

On the Agriculture Committee, Senator LEAHY and Senator LUGAR and the other members also did a good job in bringing their savings in.

Government Affairs had a very difficult task with the savings that they were asked to bring in. We are pleased with the work of Senator GLENN and the other members of the Government Affairs Committee that worked hard in that.

Mr. President, we could spend a lot of time attempting to try to answer some of the things that were said here. I want to restrain myself from doing that. I know other people would probably like that, as well.

But I want to say I wish some of the people could have been in on some of the meetings and listened and known some of the cries of pain that people gave, some of the difficulties that were raised.

They once said about the Senator from Florida that he only showed up at sundown and payday. And I think that probably was true. But it seems like, again, it is easy to show up just before the passsage of an act like this and do your number on it and make your critique. That is easy. Maybe it is kind of like the Senator from Florida when he used to show up at sundown and payday. It is another thing to kind of get in there. And it "ain't" always the trenches. Sometimes it is sort of that split that you used to make that we know about in the Army that we call something else besides the trenches. Sometimes you get into that. I think if everybody had to get in there a little while maybe they would understand a little more about the process.

With that, I think we ought to vote.

The PRESIDING OFFICER. Does the Senator from Florida yield back the balance of his time?

Mr. CHILES. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senators have yielded back their time. The question now occurs on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Oklahoma [Mr. BOREN], the Senator from Indiana [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Oregon [Mr. HATFIELD], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

On this vote, the Senator from Oregon [Mr. HATFIELD] is paired with the Senator from Utah [Mr. GARN].

If present and voting, the Senator from Oregon would vote "yea" and the Senator from Utah would vote "nay."

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

The result was announced—yes 61, nays 28, as follows:

[Rollcall Vote No. 419 Leg.]

YEAS—61

Adams	Dole	Moynihan
Baucus	Domenici	Nunn
Biden	Exon	Pell
Bingaman	Ford	Proxmire
Boschwitz	Fowler	Pryor
Bradley	Glenn	Quayle
Breaux	Graham	Riegle
Bumpers	Heinz	Rockefeller
Burdick	Inouye	Rudman
Byrd	Johnston	Sanford
Chafee	Kassebaum	Sarbanes
Chiles	Kerry	Sasser
Cochran	Lautenberg	Simpson
Cohen	Leahy	Specter
Conrad	Levin	Stennis
Cranston	Lugar	Stevens
D'Amato	Matsunaga	Thurmond
Danforth	Melcher	Weicker
DeConcini	Metzenbaum	Wirth
Dixon	Mikulski	
Dodd	Mitchell	

NAYS—28

Armstrong	Hollings	Reid
Bond	Humphrey	Roth
Daschle	Karnes	Shelby
Durenberger	Kasten	Symms
Evans	McCain	Trible
Gramm	McClure	Wallop
Hatch	McConnell	Warner
Hecht	Nickles	Wilson
Heflin	Packwood	
Helms	Pressler	

NOT VOTING—11

Bentsen	Grassley	Murkowski
Boren	Harkin	Simon
Garn	Hatfield	Stafford
Gore	Kennedy	

So the conference report on H.R. 3545 was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BREAUX. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

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

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

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the other body is not ready to move on the CR conference report, so it will be a while before the conference report is received by this body. Some Senators might wish to get themselves a bite to eat. We will send out the word when it appears that we are approaching a vote on the conference report.

I thank all Senators for their patience.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate, at 12:56 a.m., recessed subject to the call of the Chair.

Whereupon, at 1:15 a.m., the Senate reassembled when called to order by the Presiding Officer [Mr. GRAHAM].

ACTING PRESIDENT PRO TEMPORE DURING INTERSESSION RECESS

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be designated as an acting President pro tempore during the intersession recess of the Senate for the purpose of signing duly-enrolled bills and joint resolutions.

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

ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 278.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 278) entitled "An Act to amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the Act, and for other purpose", with the following amendment:

In lieu of the matter inserted by the amendment of the Senate, insert:

That (a) this Act may be cited as the "Alaska Native Claims Settlement Act Amendments of 1987".

(b) Unless otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or subsection, the reference shall be considered to be made to a section or subsection of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 and following).

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. The Congress finds and declares that—

(1) the Alaska Native Claims Settlement Act was enacted in 1971 to achieve a fair and just settlement of all aboriginal land and hunting and fishing claims by Natives and Native groups of Alaska with maximum participation by Natives in decisions affecting their rights and property;

(2) the settlement enabled Natives to participate in the subsequent expansion of Alaska's economy, encouraged efforts to address serious health and welfare problems in Native villages, and sparked a resurgence of interest in the cultural heritage of the Native people of Alaska;

(3) despite these achievements and Congress's desire that the settlement be accomplished rapidly without litigation and in conformity with the real economic and social needs of Natives, the complexity of the land conveyance process and frequent and costly litigation have delayed implementation of the settlement and diminished its value;

(4) Natives have differing opinions as to whether the Native Corporation, as originally structured by the Alaska Native Claims Settlement Act, is well adapted to the reality of life in Native villages and to the continuation of traditional Native cultural values;

(5) to ensure the continued success of the settlement and to guarantee Natives continued participation in decisions affecting their rights and property, the Alaska Native Claims Settlement Act must be amended to enable the shareholders of each Native Corporation to structure the further implementation of the settlement in light of their particular circumstances and needs;

(6) among other things, the shareholders of each Native Corporation must be permitted to decide—

(A) when restrictions on alienation of stock issued as part of the settlement should be terminated, and

(B) whether Natives born after December 18, 1971, should participate in the settlement;

(7) by granting the shareholders of each Native Corporation options to structure the further implementation of the settlement, Congress is not expressing an opinion on the manner in which such shareholders choose to balance individual rights and communal rights;

(8) no provision of this Act shall—

(A) unless specifically provided, constitute a repeal or modification, implied or otherwise, of any provision of the Alaska Native Claims Settlement Act; or

(B) confer on, or deny to, any Native organization any degree of sovereign governmental authority over lands (including management, or regulaton of the taking, of fish and wildlife) or persons in Alaska; and

(9) the Alaska Native Claims Settlement Act and this Act are Indian legislation enacted by Congress pursuant to its plenary authority under the Constitution of the United States to regulate Indian affairs.

NEW DEFINITIONS

SEC. 3. Section 3 (43 U.S.C. 1602) is amended—

(1) by inserting "group," after "individual," in subsection (h);

(2) by striking out "and" at the end of subsection (k);

(3) by striking out the period at the end of subsection (l) and inserting in lieu thereof a semicolon;

(4) by striking out "Native Group." in subsection (m) and inserting in lieu thereof "Group Corporation;"; and

(5) by adding at the end thereof the following new subsections;

"(n) 'Group Corporation' means an Alaska Native Group Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of a Native group in accordance with the terms of this Act;

"(o) 'Urban Corporation' means an Alaska Native Urban Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of an urban community of Natives in accordance with the terms of this Act;

"(p) 'Settlement Common Stock' means stock of a Native Corporation issued pursuant to section 7(g)(1) that carries with it the rights and restrictions listed in section 7(h)(1);

"(q) 'Replacement Common Stock' means stock of a Native Corporation issued in exchange for Settlement Common Stock pursuant to section 7(h)(3);

"(r) 'Descendant of a Native' means—

"(1) a lineal descendant of a Native or of an individual who would have been a Native if such individual were alive on December 18, 1971, or

"(2) an adoptee of a Native or of a descendant of a Native, whose adoption—

"(A) occurred prior to his or her majority, and

"(B) is recognized at law or in equity;

"(s) 'Alienability restrictions' means the restrictions imposed on Settlement Common Stock by section 7(h)(1)(B);

"(t) 'Settlement Trust' means a trust—

"(1) established and registered by a Native Corporation under the laws of the State of Alaska pursuant to a resolution of its shareholders, and

"(2) operated for the sole benefit of the holders of the corporation's Settlement Common Stock in accordance with section 39 and the laws of the State of Alaska.".

ISSUANCE OF STOCK

Sec. 4. Subsection (g) of section 7 (43 U.S.C. 1606(g)) is amended to read as follows:

"(g)(1) SETTLEMENT COMMON STOCK.—(A) The Regional Corporation shall be authorized to issue such number of shares of Settlement Common Stock (divided into such classes as may be specified in the articles of incorporation to reflect the provisions of this Act) as may be needed to issue one hundred shares of stock to each Native enrolled in the region pursuant to section 5.

"(B)(i) A Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock to—

"(I) Natives born after December 18, 1971,

"(II) Natives who were eligible for enrollment pursuant to section 5 but were not so enrolled, or

"(III) Natives who have attained the age of 65, for no consideration or for such consideration and upon such terms and conditions as may be specified in such amendment or in a resolution approved by the board of directors pursuant to authority expressly vested in the board by the amendment. The amendment to the articles of incorporation may specify which class of Settlement Common Stock shall be issued to the various groups of Natives.

"(ii) Not more than one hundred shares of Settlement Common Stock shall be issued to any one individual pursuant to clause (i).

"'(iii) The amendment authorized by clause (i) may provide that Settlement Common Stock issued to a Native pursuant to such amendment (or stock issued in exchange for such Settlement Common Stock pursuant to subsection (h)(3) or section 37(d)) shall be deemed cancelled upon the death of such Native. No compensation for this cancellation shall be paid to the estate of the deceased Native or to any person holding the stock.

"(iv) Settlement Common Stock issued pursuant to clause (i) shall not carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m) unless prior to the issuance of such stock, a majority of the class of existing holders of Settlement Common Stock carrying such rights separately approve the granting of such rights. The articles of incorporation of the Regional Corporation shall be deemed to be amended to authorize such class vote.

"(C)(i) A Regional Corporation may amend its articles of incorporation to authorized the issuance of additional shares of Settlement Common Stock as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon each outstanding share of Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

"(ii) The amendment authorized by clause (i) may provide that shares of Settlement Common Stock issued as a dividend or other distribution shall constitute a separate class of stock with greater per share voting power than Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

"(2) OTHER FORMS OF STOCK.—(A) A Regional Corporation may amend its articles of incorporation to authorize the issuance of shares of stock other than Settlement Common Stock in accordance with the provisions of this paragraph. Such amendment may provide that—

"(i) preemptive rights of shareholders under the laws of the State shall not apply to the issuance of such shares, or

"(ii) issuance of such shares shall permanently preclude the corporation from—

"(I) conveying assets to a Settlement Trust, or

"(II) issuing shares of stock without adequate consideration as required under the law of the State.

"(B) The amendment authorized by subparagraph (A) may provide that the stock to be issued shall be one or more of the following-

"(i) divided into classes and series within classes, with preferences, limitations, and relative rights, including, without limitation—

"(I) dividend rights,

"(II) voting rights, and

"(III) liquidation preferences;

"(ii) made subject to one or more of—

"(I) the restrictions on alienation described in clauses (i), (ii), and (iv) of subsection (h)(1)(B), and

"(II) the restriction described in paragraph (1)(B)(iii); and

"(iii) restricted in issuance to—

"(I) Natives who have attained the age of sixty-five;

"(II) other identifiable groups of Natives or identifiable groups of descendants of Natives defined in terms of general applicability and not in any way by reference to place of residence or family;

"(III) Settlement Trusts; or

"(IV) entities established for the sole benefit of Natives or descendants of Natives, in which the classes of beneficiaries are defined in terms of general applicability and not in any way by reference to place of residence, family, or position as an officer, director, or employee of a Native Corporation.

"(C) The amendment authorized by subparagraph (A) shall provide that the additional shares of stock shall be issued—

"(i) as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon all outstanding shares of stock of any class or series, or

"(ii) for such consideration as may be permitted by law (except that this requirement may be waived with respect to issuance of stock to the individuals or entities described in subparagraph (B)(iii)).

"(D) During any period in which alien ability restrictions are in effect, no stock whose issuance is authorized by subparagraph (A) shall be—

"(i) issued to, or for the benefit of, a group of individuals composed only or principally of employees, officers, and directors of the corporation; or

"(ii) issued more than thirteen months after the date on which the vote of the shareholders on the amendment authorizing the issuance of such stock occurred if, as a result of the issuance, the outstanding shares of Settlement Common Stock will represent less than a majority of the total voting power of the corporation for the purpose of electing directors.

"(3) DISCLOSURE REQUIREMENTS.—(A) An amendment to the articles of incorporation of a Regional Corporation authorized by paragraph (2) shall specify—

"(i) the maximum number of shares of any class or series of stock that may be issued, and

"(ii) the maximum number of votes that may be held by such shares.

"(B)(i) If the board of directors of a Regional Corporation intends to propose an amendment pursuant to paragraph (2) which would authorize the issuance of classes or series of stock that, singly or in combination, could cause the outstanding shares of Settlement Common Stock to represent less than a majority of the total voting power of the corporation for the purposes of electing directors, the shareholders of such corporation shall be expressly so informed.

"(ii) Such information shall be transmitted to the shareholders in a separate disclosure statement or in another informational document in writing or in recorded sound form both in English and any Native language used by a shareholder of such corporation. Such statement or informational document shall be transmitted to the shareholders at least 60 days prior to the date on which such proposal is to be submitted for a vote.

"(iii) If not later than 30 days after issuance of such disclosure statement or informational document the board of directors receives a prepared concise statement setting forth arguments in opposition to the proposed amendment together with a request for distribution thereof signed by the holders of at least 10 percent of the outstanding shares of Settlement Common Stock, the board shall either distribute such statement to the shareholders or provide to the requesting shareholders a list of all shareholder's names and addresses so that the requesting shareholders may distribute such statement.

"(4) SAVINGS.—(A)(i) No shares of stock issued pursuant to paragraphs (1)(C) and (2) shall carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m). No shares of stock issued pursuant to paragraph (1)(B) shall carry such rights unless authorized pursuant to paragraph (1)(B)(iv).

"(ii) Notwithstanding the issuance of additional shares of stock pursuant to paragraphs (1)(B), (1)(C), or (2), a Regional Corporation shall apply the ratio last computed pursuant to subsection (m) prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987 for purposes of distributing funds pursuant to subsections (j) and (m).

"(B) The issuance of additional shares of stock pursuant to paragraphs (1)(B), (1)(C), or (2) shall not affect the division and distribution of revenues pursuant to subsection (i).

"(C) No provision of this Act shall limit the right of a Regional Corporation to take an action authorized by the laws of the State unless such action is inconsistent with the provisions of this Act.".

SETTLEMENT COMMON STOCK

SEC. 5. Subsection (h) of section 7 (43 U.S.C. 1606(h)) is amended to read as follows:

"(h)(1) RIGHTS AND RESTRICTIONS.—(A) Except as otherwise expressly provided in this Act, Settlement Common Stock of a Regional Corporation shall—

"(i) carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to shareholders;

"(ii) permit the holder to receive dividends or other distributions from the corporation; and

"(iii) vest in the holder all rights of a shareholder in a business corporation organized under the laws of the State.

"(B) Except as otherwise provided in this subsection, Settlement Common Stock, inchoate rights thereto, and rights to dividends or distributions declared with respect thereto shall not be—

"(i) sold;

"(ii) pledged;

"(iii) subjected to a lien or judgment execution;

"(iv) assigned in present or future;

"(v) treated as an asset under—

"(I) title 11 of the United States Code or any successor statute,

"(II) any other insolvency or moratorium law, or

"(III) other laws generally affecting creditors' rights; or

"(vi) otherwise alienated.

"(C) Notwithstanding the restrictions set forth in subparagraph (B), Settlement Common Stock may be transferred to a Native or a descendent of a Native—

"(i) pursuant to a court decree of separation, divorce, or child support;

"(ii) by a holder who is a member of a professional organization, association, or board that limits his or her ability to practice his or her profession because he or she holds Settlement Common Stock; or

"(iii) as an inter vivos gift from a holder to his or her child, grandchild, great-grandchild, niece, or nephew.

"(2) INHERITANCE OF SETTLEMENT COMMON STOCK.—(A) Upon the death of a holder of Settlement Common Stock, ownership of such stock (unless cancelled in accordance with subsection (g)(1)(B)(iii)) shall be transferred in accordance with the lawful will of such holder or pursuant to applicable laws of intestate succession. If the holder fails to dispose of his or her stock by will and has no heirs under applicable laws of intestate succession, the stock shall escheat to the issuing Regional Corporation and be cancelled.

"(B) The issuing Regional Corporation shall have the right to purchase at fair value Settlement Common Stock transferred pursuant to applicable laws of intestate succession to a person not a Native or a descendant of a Native after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987 if—

"(i) the corporation—

"(I) amends its articles of incorporation to authorize such purchases, and

"(II) gives the person receiving such stock written notice of its intent to purchase within ninety days after the date that the corporation either determines the decedent's heirs in accordance with the law of the State or receives notice that such heirs have been determined, whichever later occurs; and

"(ii) the person receiving such stock fails to transfer the stock pursuant to paragraph (1)(C)(iii) within sixty days after receiving such written notice.

"(C) Settlement Common Stock of a Regional Corporation—

"(i) transferred by will or pursuant to applicable laws of intestate succession after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987, or

"(ii) transferred by any means prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987,

to a person not a Native or a descendant of a Native shall not carry voting rights. It at a later date such stock is lawfully transferred to a Native or a descendant of a Native, voting rights shall be automatically restored.

"(3) REPLACEMENT COMMON STOCK.—(A) On the date on which alienability restrictions terminate in accordance with the provisions of section 37, all Settlement Common Stock previously issued by a Regional Corporation shall be deemed canceled, and shares of Replacement Common Stock of the appropriate class shall be issued to each shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this Act as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

"(B)(i) Replacement Common Stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by subsection (g)(1)(B)(iii) shall bear a legend indicating that the stock will eventually be cancelled in accordance with the requirements of that subsection.

"(ii) Prior to the termination of alienability restrictions, the board of directors of the corporation shall approve a resolution to provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) shall be exchanged either for—

"(I) a share of Replacement Common Stock that carries such right, or

"(II) a share of Replacement Common Stock that does not carry such right together with a separate, non-voting security that represents only such right.

"(iii) Replacement Common Stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) shall carry such voting power and be subject to such other terms as may be provided in the amendment to the articles of incorporation authorizing the issuance of such class of Settlement Common Stock.

"(C) The articles of incorporation of the Regional Corporation shall be deemed amended to authorize the issuance of Replacement Common Stock and the security described in subparagraph (B)(ii)(II).

"(D) Prior to the date on which alienability restrictions terminate, a Regional Corporation may amend its articles of incorporation to impose upon Replacement Common Stock one or more of the following—

"(i) a restriction denying voting rights to any holder of Replacement Common Stock who is not a Native or a descendant of a Native;

"(ii) a restriction granting the Regional Corporation, or the Regional Corporation and members of the shareholder's immediate family who are Natives or descendants of Natives, the first right to purchase, on reasonable terms, the Replacement Common Stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; and

"(iii) any other term, restriction, limitation, or provision authorized by the laws of the State.

"(E) Replacement Common Stock shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.".

VILLAGE, URBAN, AND GROUP CORPORATIONS

SEC. 6. Subsection (c) of section 8 (43 U.S.C. 1607(c)) is amended to read as follows:

"(c) APPLICABILITY OF SECTION 7.—The provisions of subsections (g), (h), and (o) of section 7 shall apply in all respects to Village Corporations, Urban Corporations, and Group Corporations.".

PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

SEC. 7. The Alaska Native Claims Settlement Act is further amended by adding the following new section:

PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

"SEC. 36. (a) COVERAGE.—Notwithstanding any provision * * *.

a vote of the shareholders at the next annual meeting or at a special meeting (if the board, at its discretion, schedules such special meeting). One or more such amendments or resolutions may be submitted to the shareholders and voted upon at one meeting.

"(2)(A) A written notice (including a proxy statement if required under applicable law), setting forth the amendment or resolution approved pursuant to paragraph (1) (and, at the discretion of the board, a summary of the changes to be effected) together with any amendment or resolution submitted pursuant to subsection (c) and the statements described therein shall be sent, not less than fifty days nor more than sixty days prior to the meeting of the shareholders, by first-class mail or hand-delivered to each shareholder of record entitled to vote at his or her address as it appears in the records of the Native Corporation. The corporation may also communicate with its shareholders at any time and in any manner authorized by the laws of the State.

"(B) The board of directors may, but shall not be required to, appraise or otherwise determine the value of—

"(i) land conveyed to the corporation pursuant to section 14(h)(1) or any other land used as a cemetery;

"(ii) the surface estate of land that is both—

"(I) exempt from real estate taxation pursuant to section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 31 and following); and

"(II) used by the shareholders of the corporation for subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act); or

"(iii) land or interest in land which the board of directors believes to be only of speculative value;

in connection with any communication made to the shareholders pursuant to this subsection.

"(C) If the board of directors determines, for quorum purposes or otherwise, that a previously-noticed meeting must be postponed or adjourned, it may, by giving notice to the shareholders, set a new date for such meeting not more than forty-five days later than the original date without sending the shareholders a new written notice (or a new summary of changes to be effected). If the new date is more than forty-five days later than the original date, however, a new written notice (and a new summary of changes to be effected if such a summary was originally sent pursuant to subparagraph (A)), shall be sent or delivered to shareholders not less than thirty days nor more than forty-five days prior to the new date.

"(c) SHAREHOLDER PETITIONS.(1)(A) With respect to an amendment authorized by section 7(g)(1)(B) or section 37(b) or an amendment authorizing the issuance of stock subject to the restrictions provided by section 7(g)(2)(B)(iii), the holders of shares representing at least 25 per centum of the total voting power of a Native Corporation may petition the board of directors to submit

such amendment to a vote of the shareholders in accordance with the provisions of this section.

"(B) The requirements of the laws of the State relating to the solicitation of proxies shall govern solicitation of signatures for a petition described in subparagraph (A) except that the requirements of Federal law shall govern the solicitation of signatures for a petition that is to be submitted to a Native Corporation which at the time of such submission has issued a class of equity securities registered pursuant to the Securities Exchange Act of 1934. If a petition meets the applicable solicitation requirements and—

"(i) the board agrees with such petition, the board shall submit the amendment and either the proponents' statement or its own statement in support of the amendment to the shareholders for a vote, or

"(ii) the board disagrees with the petition for any reason, the board shall submit the amendment and the proponents' statement to the shareholders for a vote and may, at its discretion, submit an opposing statement or an alternative amendment.

"(2) Paragraph (1) shall not apply to a Native Corporation that on or before the date one year after the date of enactment of the Alaska Native Claims Settlement Act Amendments of 1987 elects application of section 37(d) in lieu of section 37(b). Until December 18, 1991, paragraph (1) shall not apply to a Native Corporation that elects application of section 37(c) in lieu of section 37(b). Insofar as they are not inconsistent with this section, the laws of the State shall govern any shareholder right of petition for Native Corporations.

"(d) VOTING STANDARDS.—(1) An amendment or resolution described in subsection (a) shall be considered to be approved by the shareholders of a Native Corporation if it receives the affirmative vote of shares representing—

"(A) a majority of the total voting power of the corporation, or

"(B) a level of the total voting power of the corporation greater than a majority (but not greater than two-thirds of the total voting power of the corporation) if the corporation establishes such a level by an amendment to its articles of incorporation.

"(2) A Native Corporation in amending its articles of incorporation pursuant to section 7(g)(2) to authorize the issuance of a new class or series of stock may provide that a majority (or more than a majority) of the shares of such class or series must vote in favor of an amendment or resolution described in subsection (a) (other than an amendment authorized by section 37) in order for such amendment or resolution to be approved.

"(e) VOTING POWER.—For the purposes of this section, the determination of total voting power of a Native Corporation shall include all outstanding shares of stock that carry voting rights except shares that are not permitted to vote on the amendment or resolution in question because of restrictions in the articles of incorporation of the corporation.".

DURATION OF ALIENABILITY RESTRICTIONS

SEC. 8. The Alaska Native Claims Settlement Act is further amended by adding the following new section after section 36:

"DURATION OF ALIENABILITY RESTRICTIONS

"SEC. 37. (a) GENERAL RULE.—Alienability restrictions shall continue until terminated in accordance with the procedures established by this section. No such termination shall take effect until after December 18, 1991.

"(b) OPT-OUT PROCEDURE.—(1)(A) A Native Corporation may amend its articles of incorporation to terminate alienability restrictions in accordance with this subsection. Only one amendment to terminate alienability restrictions shall be considered and voted on prior to December 18, 1991. Rejection of the amendment shall not preclude consideration prior to December 18, 1991, of subsequent amendments to terminate alienability restrictions.

"(B) If an amendment to terminate alienability restrictions is considered, voted on, and rejected prior to December 18, 1991, then subsequent amendments to terminate alienability restrictions after December 18, 1991, shall be considered and voted on—

"(i) in the case of an amendment submitted by the board of directors of the corporation on its own motion, not earlier than 5 years after the rejection of the most recently rejected amendment to terminate restrictions; or

"(ii) in the case of an amendment submitted by the board of directors of the corporation pursuant to a shareholder petition, not earlier than 2 years after the rejection of the most recently rejected amendment to terminate restrictions.

"(C) If no amendment to terminate alienability restrictions is considered and voted on prior to December 18, 1991, then amendments to terminate alienability restrictions after Decembver 18, 1991, shall be considered and voted on—

"(i) in the case of an amendment submitted by the board of directors of the corporation on its own motion, not more than once every 5 years; or

"(ii) in the case of an amendment submitted by the board of directors of the corporation pursuant to a shareholder petition, not more than once every 2 years.

"(2) An amendment authorized by paragraph (1) shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which alienability restrictions shall terminate.

"(3) Dissenters rights may be granted by the corporation in connection with the rejection of an amendment to terminate alienability restrictions in accordance with section 38. Once dissenters rights have been so granted, they shall not be granted again in connection with subsequent amendments to terminate alienability restrictions.

"(c) RECAPITALIZATION PROCEDURE.—(1)(A) On or prior to December 18, 1991, a Native Corporation may amend its articles of incorporation to implement a recapitalization plan in accordance with this subsection. Rejection of an amendment or amendments to implement a recapitalization plan shall not preclude consideration prior to December 18, 1991, of a subsequent amendment or amendments to implement such a plan. Subsequent amendment or amendments shall be considered and voted on not earlier than one year after the date on which the most recent previous recapitalization plan was rejected. No recapitalization plan shall provide for the termination of alienability restrictions prior to December 18, 1991.

"(B) An amendment or amendments submitted pursuant to subparagraph (A) (and any subsequent amendment submitted pursuant to subparagraph (C)) may provide for the maintenance or extension of alienability restrictions for—

"(i) an indefinite period of time;

"(ii) a specified period of time not to exceed fifty years; or

"(iii) a period of time that shall end upon the occurrence of a specified event.

"(C) If an amendment or amendments approved pursuant to subparagraph (A) or this subparagraph maintains or extends alienability restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of maintenance or extension then in force.

"(D) The board of directors may ask the shareholders to approve en bloc pursuant to a single vote a series of amendments (including an amendment to authorize the issuance of stock pursuant to section 7(g)) to implement a recapitalization plan that includes a provision maintaining alienability restrictions.

"(2)(A) If an amendment to the articles of incorporation of a Native Corporation maintaining or extending alienability restrictions for a specified period of time is approved pursuant to paragraph (1), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (1)(C).

"(B)(i) A Native Corporation that approves an amendment to its articles of incorporation pursuant to paragraph (1)(B) to maintain or extend alienability restrictions for an indefinite period may later amend its articles to terminate such restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

"(ii) Rejection of an amendment described in clause (i) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

"(3) If a recapitalization plan approved pursuant to paragraph (1) distributes voting alienable common stock to each holder of shares of Settlement Common Stock (issued pursuant to section 7(g)(1)(A)) that carries aggregate dividend and liquidation rights equivalent to those carried by such shares of Settlement Common Stock (except for rights to distributions made pursuant to sections 7(j) and 7(m)) upon completion of the recapitalization plan, then such holder shall have no right under section 38 and any other provision of law to further compensation from the corporation with respect to action taken pursuant to this subsection.

"(d) OPT-IN PROCEDURE.—(1)(A) Subsection (b) shall not apply to a Native Corporation whose board of directors approves, no later than one year after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987, a resolution electing the application of this subsection.

"(B) This subsection shall not apply to Village Corporations, Urban Corporations, and Group Corporations located outside of the Bristol Bay and Aleut regions.

"(2)(A) Alienability restrictions imposed on Settlement Common Stock issued by a Native Corporation electing application of this subsection shall terminate on December 18, 1991, unless extended in accordance with the provisions of this subsection.

"(B) The board of directors of a Native Corporation electing application of this subsection shall, at least once prior to January

1, 1991, approve, and submit to a vote of the shareholders, an amendment to the articles of incorporation of the corporation to extend alienability restrictions. If the amendment is not approved by the shareholders, the board of directors may submit another such amendment to the shareholders once or more a year until December 18, 1991.

"(C) An amendment submitted pursuant to subparagraph (B) and any amendment submitted pursuant to subparagraph (D) may provide for an extension of alienability restrictions for—

"(i) an indefinite period of time, or

"(ii) a specified period of time of not less than 1 year and not more than 50 years.

"(D) If an amendment approved by the shareholders of a Native Corporation pursuant to subparagraph (B) or this subparagraph extends alienability restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of extension then in force.

"(3)(A) If an amendment to the articles of incorporation of a Native Corporation extending alienability restrictions for a specified period of time is approved pursuant to paragraph (2), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (2)(D).

"(B) If the board of directors of a Native Corporation electing application of this subsection does not submit for a shareholder vote an amendment to the articles of incorporation of the corporation in accordance with paragraph (2)(B), or if the amendment submitted does not comply with paragraph (2)(C), alienability restrictions shall not terminate and shall instead remain in effect until such time as a court of competent jurisdiction, upon petition of one or more shareholders of the corporation, orders that a shareholder vote be taken on an amendment which complies with paragraph (2)(C) and such vote is conducted. Following the vote, the status of alienability restrictions shall be determined in accordance with the other provisions of this subsection and the amendment, if approved.

"(4)(A) A Native Corporation that approves an amendment to its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions for an indefinite period of time may later amend its articles of incorporation to terminate the restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

"(B) The rejection of an amendment described in subparagraph (A) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

"(5)(A) If a Native Corporation amends its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions, a shareholder who—

"(i) voted against such amendment, and

"(ii) desires to relinquish his or her Settlement Common Stock in exchange for the stock or payment authorized by the board of directors pursuant to subparagraph (B), shall notify the Corporation within 90 days of the date of the vote of the shareholders on the amendment of his or her desire.

"(B) Within 120 days after the date of the vote described in subparagraph (A), the board of directors shall approve a resolution to provide that each shareholder who has notified the corporation pursuant to subparagraph (A) shall receive either—

"(i) alienable common stock in exchange for his or her Settlement Common Stock pursuant to paragraph (6), or

"(ii) an opportunity to request payment for his or her Settlement Common Stock pursuant to section 38(a)(1)(B).

"(C) This paragraph shall apply only to the first extension of alienability restrictions approved by the shareholders. No dissenters rights of any sort shall be permitted in connection with subsequent extensions of such restrictions.

"(6)(A) If the board of directors of a Native Corporation approves a resolution providing for the issuance of alienable common stock pursuant to paragraph (5)(B), then on December 18, 1991, or sixty days after the approval of the resolution, whichever later occurs, the Settlement Common Stock of each shareholder who has notified the corporation pursuant to paragraph (5)(A) shall be deemed cancelled, and shares of alienable common stock of the appropriate class shall be issued to such shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this Act as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

"(B)(i) Alienable common stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by section 7(g)(1)(B)(iii) shall bear a legend indicating that the stock will eventually be cancelled in accordance with the requirements of that section.

"(ii) Alienable common stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) shall carry such voting power and be subject to such other terms as may be provided in the amendment to the articles of incorporation authorizing the issuance of such class of Settlement Common Stock.

"(iii) In the resolution authorized by paragraph (5)(B), the board of directors shall provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) of section 7 shall be exchanged either for—

"(I) a share of alienable common stock carrying such right, or

"(II) a share of alienable common stock that does not carry such right together with a separate, non-voting security that represents only such right.

"(iv) In the resolution authorized by paragraph (5)(B), the board of directors may impose upon the alienable common stock to be issued in exchange for Settlement Common Stock one or more of the following—

"(I) a restriction granting the corporation, or the corporation and members of the shareholder's immediate family who are Natives or descendants of Natives the first right to purchase, on reasonable terms, the alienable common stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; or

"(II) any other term, restriction, limitation, or other provision permitted under the laws of the State.

"(C) The articles of incorporation of the Native Corporation shall be deemed amended to implement the provisions of the resolution authorized by paragraph (5)(B).

"(D) Alienable common stock issued pursuant to this subparagraph shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.

"(7)(A) No share of alienable common stock issued pursuant to paragraph (6) shall carry voting rights if it is owned, legally or beneficially, by a person not a Native or a descendant of a Native.

"(B)(i) A purchaser or other transferee of shares of alienable common stock shall, as a condition of the obligation of the issuing Native Corporation to transfer such shares on the books of the corporation, deliver to the corporation or transfer agent, as the case may be, a statement on a form prescribed by the corporation identifying the number of such shares to be transferred to such transferee and certifying—

"(I) that such transferee is or is not a Native or a descendant of a Native;

"(II) that such transferee, if not a Native or a descendant of a Native, understands that shares of such alienable common stock shall not carry voting rights so long as such shares are held by the transferee or any subsequent transferee not a Native or a descendant of a Native;

"(III) that such transferee, if a purchaser, understands that such acquisition may be subject to section 13(d) of the Securities Exchange Act of 1934, as amended, and the regulations of the Securities and Exchange Commission promulgated thereunder; and

"(IV) whether such transferee will be the sole beneficial owner of such shares (if not, the transferee must certify as to the identities of all beneficial owners of such shares and whether such owners are Natives or descendants of Natives).

"(ii) The statement required by clause (i) shall be prima facie evidence of the matters certified therein and may be relied upon by the corporation in effecting a transfer on its books.

"(iii) For purposes of this subparagraph, a beneficial owner of a security includes any person (including a corporation, partnership, trust, association, or other entity) who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares—

"(I) voting power, which includes the power to vote, or to direct the voting of, such security; or

"(II) investment power, which includes the power to dispose of, or to direct the disposition of, such security.

"(iv) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose of effect of divesting such person of beneficial ownership of a security or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the requirements imposed by this section or section 13(d) of the Securities Exchange Act of 1934, as amended, shall be deemed for purposes of such sections to be the beneficial owner of such security.

"(C) The statement required by subparagraph (B) shall be verified by the transferee before a notary public or other official authorized to administer oaths in accordance with the laws of the jurisdiction of the transferee or in which the transfer is made.".

DISSENTERS RIGHTS

SEC. 9. The Alaska Native Claims Settlement Act is further amended by adding the following new section after section 37:

"DISSENTERS RIGHTS

"SEC. 38. (a) COVERAGE.—(1) Notwithstanding the laws of the State, if the shareholders of a Native Corporation—

"(A) fail to approve an amendment authorized by section 37(b) to terminate alienability restrictions, a shareholder who voted for the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock; or

"(B) approve an amendment authorized by section 37(d) to continue alienability restrictions without issuing alienable common stock pursuant to section 37(d)(6), a shareholder who voted against the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock.

"(2)(A) A demand for payment made pursuant to paragraph (1)(A) shall be honored only if at the same time as the vote giving rise to the demand, the shareholders of the corporation approved a resolution providing for the purchase of Settlement Common Stock from dissenting shareholders.

"(B) A demand for payment made pursuant to paragraph (1)(B) shall be honored.

"(b) RELATIONSHIP TO STATE PROCEDURE.—Except as otherwise provided in this section, the laws of the State governing the right of a dissenting shareholder to demand and receive payment for his or her shares shall apply to demands for payment honored pursuant to subsection (a)(2).

"(2) The board of directors of a Native Corporation may approve a resolution to provide a dissenting shareholder periods of time longer than those provided under the laws of the State to take actions required to demand and receive payment for his or her shares.

"(c) VALUATION OF STOCK.—(1) Prior to a vote described in subsection (a)(1), the board of directors of a Native Corporation may approve a resolution to provide that one or more of the following conditions will apply in the event a demand for payment is honored pursuant to subsection (a)(2)—

"(A) the Settlement Common Stock shall be valued as restricted stock; and

"(B) the value of—

"(i) any land conveyed to the corporation pursuant to section 14(h)(1) or any other land used as a cemetery; and

"(ii) the surface estate of any land that is both—

"(I) exempt from real estate taxation pursuant to section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act, and

"(II) used by the shareholders of the corporation for subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act); or

"(iii) any land or interest in land which the board of directors believes to be only of speculative value;

shall be excluded by the shareholder making the demand for payment, the corporation purchasing the Settlement Common Stock of the shareholder, and any court determining the fair value of the shares of Settlement Common Stock to be purchased.

"(2) No person shall have a claim against a Native Corporation or its board of directors based upon the failure of the board to approve a resolution authorized by this subsection.

"(d) FORM OF PAYMENT.—(1) Prior to a vote described in subsection (a)(1), the board of directors of a Native Corporation may approve a resolution to provide that in the event a demand for payment is honored pursuant to subsection (a)(2) payments to each dissenting shareholder shall be made by the corporation through the issuance of a negotiable note in the principal amount of the payment due, which shall be secured by—

"(A) a payment bond issued by an insurance company or financial institution;

"(B) the deposit in escrow of securities or property having a fair market value equal to at least 125 per centum of the face value of the note; or

"(C) a lien upon real property interests of the corporation valued at 125 percent or more of the face amount of the note, except that no such lien shall be applicable to—

"(i) land conveyed to the corporation pursuant to section 14(h)(1), or any other land used as a cemetery;

"(ii) the percentage interest in the corporation's timber resources and subsurface estate that exceeds its percentage interest in revenues from such property under section 7(i); or

"(iii) the surface estate of land that is both—

"(I) exempt from real estate taxation pursuant to section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act; and

"(II) use by the shareholders of the corporation for subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act),

unless the Board of Directors of the corporation acts so as to make such lien applicable to such surface estate.

"(2) A note issued pursuant to paragraph (1) shall provide that—

"(A) interest shall be paid semi-annually, beginning as of the date on which the vote described in subsection (a)(1) ocurred, at the rate applicable on such date to obligations of the United States having a maturity date of one year, and

"(B) the principal amount and accrued interest on such note shall be payable to the holder at a time specified by the corporation but in no event later than the date that is five years after the date of the vote described in subsection (a)(1).

"(e) DIVIDEND ADJUSTMENT.—(1) The cash payment made pursuant to subsection (a) or the principal amount of a note issued pursuant to subsection (d) to a dissenting shareholder shall be reduced by the amount of dividends paid to such shareholder with respect to his or her Settlement Common Stock after the date of the vote described in subsection (a)(1).

"(2) Upon receipt of a cash payment pursuant to subsection (a) or a note pursuant to subsection (d), a dissenting shareholder shall no longer have an interest in the shares of Settlement Common Stock or in the Native Corporation.".

SETTLEMENT TRUST OPTION

SEC. 10. The Alaska Native Claims Settlement Act is further amended by adding the following new section:

"SETTLEMENT TRUST OPTION

"SEC. 39. (a) CONVEYANCE OF CORPORATE ASSETS.—(1)(A) A Native Corporation may convey assets (including stock or beneficial interests therein) to a Settlement Trust in accordance with the laws of the State (except to the extent that such laws are inconsistent with this section and section 36).

"(B) The approval of the shareholders of the corporation in the form of a resolution shall be required to convey all or substantially all of the assets of the corporation to a Settlement Trust. A conveyance in violation of this clause shall be void ab initio and shall not be given effect by any court.

"(2) No subsurface estate in land shall be conveyed to a Settlement Trust. A conveyance of title to, or any other interest in, subsurface estate in violation of this subparagraph shall be void ab initio and shall not be given effect by any court.

"(3) Conveyances made pursuant to this subsection—

"(A) shall be subject to applicable laws representing fraudulent conveyance and creditors rights; and

"(B) shall give rise to dissenters rights to the extent provided under the laws of the State only if the rights of beneficiaries in the Settlement Trust receiving a conveyance are inalienable.

"(4) The provisions of this subsection shall not prohibit a Native Corporation from engaging in any conveyance, reorganization, or transaction not otherwise prohibited under the laws of the State or the United States.

"(b) AUTHORITY AND LIMITATIONS OF A SETTLEMENT TRUST.—(1) The purpose of a Settlement Trust shall be to promote the health, education, and welfare of its beneficiaries and preserve the heritage and culture of Natives. A Settlement Trust shall not—

"(A) operate as a business;

"(B) alienate land or any interest in land received from the settlor Native Corporation (except if the recipient of the land is the settlor corporation); or

"(C) discriminate in favor of a group of individuals composed only or principally of employees, officers, or directors of the settlor Native Corporation.

An alienation of land or an interest in land in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

"(2) A Native Corporation that has established a Settlement Trust shall have exclusive authority to—

"(A) appoint the trustees of the trust, and

"(B) remove the trustees of the trust for cause.

Only a natural person shall be appointed a trustee of a * * *.

* * * * *

"(3) The conveyance of assets (including stock or beneficial interests) pursuant to subsection (a) shall not affect the applicability or enforcement (including specific performance) of a valid contract, judgment, lien, or other obligation (including an obligation arising under section 7(i) to which such assets, stock, or beneficial interests were subject immediately prior to such conveyance.

"(4) A claim based upon paragraph (1), (2), or (3) shall be enforceable against the transferee Settlement Trust holding the land, interest in land, or other assets (including stock or beneficial interests) in question to the same extent as such claim

would have been enforceable against the transferor Native Corporation, and valid obligations arising under section 7(i) as well as claims with respect to a conveyance in violation of a valid contract, judgment, lien, or other obligation shall also be enforceable against the transferor corporation.

"(5) Except as provided in paragraphs (1), (2), (3), and (4), once a Native Corporation has made, pursuant to subsection (a), a conveyance to a Settlement Trust that does not—

"(A) render it—

"(i) unable to satisfy claims based upon paragraph (1), (2), or (3); or

"(ii) insolvent; or

"(B) occur when the Native Corporation is insolvent; the assets so conveyed to the Settlement Trust shall not be subject to conveyed to the Settlement Trust shall not be subject to attachment, distraint, or sale on execution of judgment or other process or order of any court, except with respect to the lawful debts or obligations of the Settlement Trust.

"(6) No transferee Settlement Trust shall make a distribution or conveyance of assets (including cash, stock, or beneficial interests) that would render it unable to satisfy a claim made pursuant to paragraph (1), (2), or (3). A distribution or conveyance made in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

"(7) Except where otherwise expressly provided, no provision of this section shall be construed to require shareholder approval of an action where shareholder approval would not be required under the laws of the State.

ALASKA LAND BANK

SEC. 11. Section 907 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636) is amended—

(1) by striking out "subsection (c)(2)" throughout the section and inserting in lieu thereof "subsection (d)(1)";

(2) in the proviso of subsection (a), by striking out "lands not owned by landowners described in subsection (c)(2) shall not" and inserting in lieu thereof "no lands shall";

(3) by amending subsections (c), (d), and (e) to read as follows:

"(c) BENEFITS TO PRIVATE LANDOWNERS.—(1) In additon to any requirement of applicable law, the appropriate Secretary is authorized to provide technical and other assistance with respect to fire control, trespass control, resource and land use planning, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement, all with or without reimbursement as agreed upon by the parties, so long as the landowner is in compliance with the agreement.

"(2) The provision of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement made pursuant to this section so long as the parties to the agreement are in compliance therewith.

"(d) AUTOMATIC PROTECTIONS FOR LANDS CONVEYED PURSUANT TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.—(1)(A) Notwithstanding any other provision of law or doctrine of equity, all land and interests in land in Alaska conveyed by the Federal Government pursuant to the Alaska Native Claims Settlement Act to a Native individual or Native Corporation or subsequently reconveyed by a Native Corporation pursuant to section 39 of that Act to a Settlement Trust shall be exempt, so long as such land and interests are not developed or leased or sold to third parties from—

"(i) adverse possession and similar claims based upon estoppel;

"(ii) real property taxes by any governmental entity;

"(iii) judgments resulting from a claim based upon or arising under—

"(I) title 11 of the United States Code or any successor statute,

"(II) other insolvency or moratorium laws, or

"(III) other laws generally affecting creditors' rights;

"(iv) judgments in any action at law or in equity to recover sums owed or penalties incurred by a Native Corporation or Settlement Trust or any employee, officer, director, or shareholder of such corporation or trust, unless this exemption is contractually waived prior to the commencement of such action; and

"(v) involuntary distributions or conveyances related to the involuntary dissolution of a Native Corporation or Settlement Trust.

"(B) Except as otherwise provided specifically, the exemptions described in subparagraph (A) shall apply to any claim or judgment existing on or arising after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(2) DEFINITIONS.—(A) For purposes of this subsection, the term—

"(i) 'Developed' means a purposeful modification of land, or an interest in land, from its original state that effectuates a condition of gainful and productive present use without further substantial modification. Surveying, construction of roads, providing utilities, or other similar actions, which are normally considered to be component parts of the development process but do not create the condition described in the preceding sentence, shall not constitute a developed state within the meaning of this clause. In order to terminate the exemptions listed in paragraph (1), land, or an interest in land, must be developed for purposes other than exploration, and the exemptions will be terminated only with respect to the smallest practicable tract actually used in the developed state;

"(ii) 'Exploration' means the examination and investigation of undeveloped land to determine the existence of subsurface nonrenewable resources; and

"(iii) 'Leased' means subjected to a grant of primary possession entered into for a gainful purpose with a determinable fee remaining in the hands of the grantor. With respect to a lease that conveys rights of exploration and development, the exemptions listed in paragraph (1) shall continue with respect to that portion of the leased tract that is used solely for the purposes of exploration.

"(B) For purpose of this subsection—

"(i) land shall not be considered developed solely as a result of—

"(I) the construction, installation, or placement upon such land of any structure, fixture, device, or other improvement intended to enable, assist, or otherwise further subsistence uses or other customary or traditional uses of such land, or

"(II) the receipt of fees related to hunting, fishing, and guiding activities conducted on such land;

"(ii) land upon which timber resources are being harvested shall be considered developed only during the period of such harvest and only to the extent that such land is integrally related to the timber harvesting operation; and

"(iii) land subdivided by a State or local platting authority on the basis of a subdivision plat submitted by the holder of the land or its agent, shall be considered developed on the date an approved subdivision plat is recorded by such holder or agent unless the subdivided property is a remainder parcel.

"(3) ACTION BY A TRUSTEE.—(A) Except as provided in this paragraph and in section 14(c)(3) of the Alaska Native Claims Settlement Act no trustee, receiver, or custodian vested pursuant to applicable Federal or State law with a right, title, or interest of a Native individual or Native Corporation shall—

"(i) assign or lease to a third party,

"(ii) commence development or use of, or

"(iii) convey to a third party,

any right, title, or interest in any land, or interests in land, subject to the exemptions described in paragraph (1).

"(B) The prohibitions of subparagraph (A) shall not apply—

"(i) when the actions of such trustee, receiver, or custodian are for purposes of exploration or pursuant to a judgment in law or in equity (or arbitration award) arising out of any claim made pursuant to section 7(i) or section 14(c) of the Alaska Native Claims Settlement Act; or

"(ii) to any land, or interest in land, which has been—

"(I) developed or leased prior to the vesting of the trustee, receiver, or custodian with the right, title, or interest of the Native Corporation; or

"(II) expressly pledged as security for any loan or expressly committed to any commercial transaction in a valid agreement.

"(4) EXCLUSIONS, REATTACHMENT OF EXEMPTIONS.—(A) The exemptions listed in paragraph (1) shall not apply to any land, or interest in land, which is—

"(i) developed or leased or sold to a third party;

"(ii) held by a Native Corporation in which neither—

"(I) the Settlement Common Stock of the corporation,

"(II) the Settlement Common Stock of the corporation and other stock of the corporation held by the holders of Settlement Common Stock, nor

"(III) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives,

represents a majority of either the total equity of the corporation or the total voting power of the corporation for the purposes of electing directors; or

"(iii) held by a Settlement Trust with respect to which any of the conditions set forth in section 39 of * * *.

* * * * *

submitted by, or on behalf of, a Native individual, Native Corporation, or Settlement Trust with respect to land described in paragraph (1), such individual, corporation, or trust shall pay in accordance with this paragraph all State and local property taxes on the smallest practicable tract integrally related to the subdivision project that would have been incurred by the individual, corporation, or trust on such land (excluding the value of subsurface resources and timber) in the absence of the exemption described in paragraph (1)(A)(ii) during the 30 months prior to the date of the recordation of the plat.

"(B) State and local property taxes specified in subparagraph (A) of this paragraph (together with interest at the rate of 5 per centum per annum commencing on the date of recordation of the subdivision plat) shall be paid in equal semi-annual installments over a 2-year period commencing on the date 6 months after the date of recordation of the subdivision plat.

"(C) At least 30 days prior to final approval of a plat of the type described in subparagraph (A), the government entity with jurisdiction over the plat shall notify the submitting individual, corporation, or trust of the estimated tax liability that would be incurred as a result of the recordation of the plat at the time of final approval.

"(6) SAVINGS.—(A) No provision of this subsection shall be construed to impair, or otherwise affect, any valid contract or other obligation that was entered into prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(B) Enactment of this subsection shall not affect any real property tax claim in litigation on the date of enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(e) CONDEMNATION.—All land subject to an agreement made pursuant to subsection (a) and all land, and interests in land, conveyed or subsequently reconveyed pursuant to the Alaska Native Claims Settlement Act to a Native individual, Native Corporation, or Settlement Trust shall be subject to condemnation for public purposes in accordance with the provisions of this Act and other applicable law."; and

(4) by adding at the end thereof the following new subsection:

"(g) STATE JURISDICTION.—Except as expressly provided in subsection (d), no provision of this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.".

CONFORMING AMENDMENTS

SEC. 12. (a) SECTION 7.—Subsection (o) of section 7 (43 U.S.C. 1606) is amended to strike everything following the word "stockholder" except the period at the end of the subsection.

(b) SECTION 21.—Section 21 (43 U.S.C. 1620) is amended—

(1) by inserting after "distributions" in subsection (a) "(even if the Regional Corporation or Village Corporation distributing the dividend has not segregated revenue received from the Alaska Native Fund from revenue received form other sources)";

(2) by striking out "Village Corporation" in subsection (j); and

(3) by striking out everything after "one and one-half acres:" in subsection (j) and inserting in lieu thereof: "Provided further, That if the shareholder receiving the homesite subdivides such homesite, he or she shall pay all Federal, State, and local taxes that would have been incurred but for this subsection together with simple interest at 6 per centum per annum calculated from the date of receipt of the homesite, including taxes or assessments for the provision of road access and water and sewage facilities by the conveying corporation or the shareholder.".

(c) SECTION 30.—Subsection (b) of section 30 (43 U.S.C. 1627(b)) is amended by striking out "prior to December 19, 1991" and inserting in lieu thereof "prior to December 19, 1991" and inserting in lieu thereof "while the Settlement Common Stock of all corporations subject to merger or consolidation remains subject to alienability restrictions.".

(d) SECURITIES EXCHANGE ACT OF 1934.—Section 13(d)(1) of the Securities Exchange Act of 1934 is amended by inserting "or any equity security issued by a Native Corporation pursuant to section 37(d)(6) of the Alaska Native Claims Settlement Act" after "Investment Company Act of 1940".

SEVERABILITY

SEC. 13. Section 27 (85 Stat. 688) is amended to read as follows:

"SEVERABILITY

"SEC. 27. The provisions of this Act, as amended, and the Alaska Native Claims Settlement Act Amendments of 1987 are severable. If any provision of either Act is determined by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other provision of either Act.".

SECURITY LAWS EXEMPTION

SEC. 14. Section 28 (43 U.S.C. 1625) is amended to read as follows:

"SECURITIES LAWS EXEMPTION

"SEC. 28. (a) A Native Corporation shall be exempt from the provisions, as amended, of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 Stat. 881) until earlier of the day after—

"(1) the date on which the corporation issues shares of stock other than Settlement Common Stock in a transaction where—

"(A) the transaction or the shares are not otherwise exempt from Federal securities laws; and

"(B) the shares are issued to persons or entities other than—

"(i) individuals who held shares in the corporation on the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987;

"(ii) Natives;

"(iii) descendants of Natives;

"(iv) individuals who have received shares of Settlement Common Stock by inheritance pursuant to section 7(h)(2);

"(v) Settlement Trusts; or

"(vi) entities established for the sole benefit of Natives or descendants of Natives; or

"(2) the date on which alienability restrictions are terminated; or

"(3) the date on which the corporation files a registration statement with the Securities and Exchange Commission pursuant to either the Securities Act of 1933 or the Securities Exchange Act of 1934.

"(b) No provision of this section shall be construed to require or imply that a Native Corporation shall, or shall not, be subject to provisions of the Acts listed in subsection (a) after any of the dates described in subsection (a).

"(c)(1) A Native Corporation that, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall annually prepare and transmit to its shareholders a report that contains substantially all the information required to be included in an annual report to shareholders by a corporation subject to that Act.

"(2) For purposes of determining the applicability of the registration requirements of the Securities Exchange Act of 1934 on or after the date described in subsection (a), holders of Settlement Common Stock shall be excluded from the calculation of the number of shareholders of record pursuant to section 12(g) of that Act.

"(d)(1) Notwithstanding any other provision of law, prior to January 1, 2001, the provisions of the Investment Company Act of 1940 shall not apply to any Native Corporation or any subsidiary of such corporation if such subsidiary is wholly owned (as that term is defined in the Investment Company Act of 1940) by the corporation and the corporation owns at least 95 percent of the equity of the subsidiary.

"(2) The Investment Company Act of 1940 shall not apply to any Settlement Trust.

"(3) If, but for this section, a Native Corporation would qualify as an Investment Company under the Investment Company Act of 1940, it shall be entitled to voluntary register pursuant to such Act and any such corporation which so registered shall thereafter comply with the provisions of such Act.".

ELIGIBILITY FOR NEEDS-BASED FEDERAL PROGRAMS; MINORITY STATUS

SEC. 15. Section 29 (43 U.S.C. 1626) is amended by adding the following new subsections:

"(c) In determining the eligibility of a household, an individual Native, or a descendent of a Native (as defined in section 3(r)) to—

"(1) participate in the Food Stamp program,

"(2) receive aid, assistance, or benefits, based on need, under the Social Security Act, or

"(3) receive financial assistance or benefits, based on need, under any other Federal program or federally-assisted program,

none of the following, received from a Native Corporation, shall be considered or taken into account as an asset or resource:

"(A) cash (including cash dividends on stock received from a Native Corporation) to the extent that it does not, in the aggregate, exceed $2,000 per individual per annum;

"(B) stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock);

"(C) a partnership interest;

"(D) land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and

"(E) an interest in a settlement trust.

"(d) Notwithstanding any other provision of law, Alaska Natives shall remain eligible for all Federal Indian programs on the same basis as other Native Americans.

"(e)(1) For all purposes of Federal law, a Native Corporation shall be considered to be a corporation owned and * * *

* * * * *

paragraph (1) shall be considered to be entities owned and controlled by Natives and a minority business enterprise if the shares of stock or other units of ownership interest in any such entity held by such Native Corporation and by the holders of its Settlement Common Stock represent a majority of both—

"(A) the total equity of the subsidiary corporation, joint venture, or partnership; and

"(B) the total voting power of the subsidiary corporation, joint venture, or partnership for the purpose of electing directors, the general partner, or principal officers. * * *

* * * * *

"(2) The amendment made by paragraph (1) shall be effective as if originally included in section 3 of Public Law 97-451.

"(g) For the purposes of implementation of the Civil Rights Act of 1964, a Native

Corporation and corporations, partnerships, joint ventures, trusts, or affiliates in which the Native Corporation owns not less than 25 per centum of the equity shall be within the class defined in section 701(b) of Public Law 88-352 (78 Stat. 253), as amended, or successor statutes.".

JUDICIAL REVIEW

SEC. 16. (a) Statute of Limitation.—(1) Notwithstanding any other provision of law, a civil action that challenges the constitutionality of an amendment may by, or other provisions of this Act (the Alaska Native Claims Settlement Act Amendments of 1987) shall be barred unless filed within the periods specified in this subsection.

(2) If a civil action described in paragraph (1) challenges—

(A) the issuance or distribution of settlement Common Stock for less than fair market value consideration pursuant to section 7(g)(1)(B) or 7(g)(2)(C)(ii) of the Alaska Native Claim Settlement Act; or

(B) an extension of alienability restrictions that involves the issuance of stock pursuant to subsection * * *

* * * * *

(2) No money judgment shall be entered against the United States in a civil action subject to this section.

(c) STATEMENT OF PURPOSE.—The purpose of the limitation on civil actions established by this section is—

(1) to ensure that after the expiration of a reasonable period of time, Native shareholders, Native Corporations, the United States, and the State of Alaska and its political subdivisions will be able to plan their affairs with certainty in full reliance on the provisions of this Act, and

(2) to eliminate the possibility that the United States will incur a monetary liability as a result of the enactment of this Act.

DISCLAIMER

SEC. 17. (a) No provision of this Act (the Alaska Native Claims Settlement Act Amendments of 1987), exercise of authority pursuant to this Act, or change made by, or pursuant to, this Act in the status of land shall be construed to validate or invalidate or in any way affect—

(1) any assertion that a Native organization (including a federally-recognized tribe, traditional Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), as amended) has or does not have governmental authority over lands (including management of, or regulation of the taking of, fish and wildlife) or persons within the boundaries of the State of Alaska, or

(2) any assertion that Indian country (as defined by 18 U.S.C. 1151 or any other authority) exists or does not exist within the boundaries of the State of Alaska.

(b) Nothing in the Alaska Native Claims Settlement Act Amendments of 1987 (or any amendment made thereby) shall be construed—

(1) to diminish or enlarge the ability of the Federal Government to assess, collect, or otherwise enforce any Federal tax, or

(2) to affect, for Federal tax purposes, the valuation of any stock issued by a Native Corporation.

Mr. STEVENS. Mr. President, I want to thank the majority leader for calling up this bill at this time. The distinguished chairman of the House Interior and Insular Affairs Committee, Congressman UDALL, has just visited the Chamber. I thank him personally for the work that he and his staff, particularly Frank Ducheneaux, have done on this bill. I also thank Congressman GEORGE MILLER and his staff, particularly Jeff Petrich; Congressman BRUCE VENTO and his staff, particularly Stan Sloss; and of course, Congressman DON YOUNG, my colleague, from Alaska and his staff, particularly Rick Agnew.

On this side of the Capitol, Senator JOHNSTON and his staff, Mike Harvey and Tom Williams; Senator MCCLURE and his staff, Gary Ellsworth and Tony Bevinetto; Senator MURKOWSKI and his staff, Tom Roberts in particular; and my chief of staff, Greg Chapados have spent a lot of time preparing this bill for our consideration tonight. I thank them for their efforts.

This bill, Mr. President, is the culmination of work that began in 1971.

These amendments to the Alaska Native Claims Settlement Act (ANCSA) are essential to the continued viability of the 1971 Native land settlement. It is with great pride that I report that we are able to proceed with this bill now. Only Congressman UDALL and I remain of the members of the 1971 conference that produced ANCSA, we both are committed to ensuring the success of the land settlement, and we are pleased that so many other members share that sense of commitment.

Mr. MURKOWSKI. Mr. President, I am extremely grateful for the Senate's action in passing H.R. 278 tonight. This legislation amends the Alaska Native Claims Settlement Act [ANCSA] in order to ensure continued native ownership of lands received in settlement of Alaska Natives aboriginal claims.

Senator STEVENS and I have worked for 2 long years to enact these amendments. With Senate passage, we have achieved that goal. Over the last several weeks, we have worked very hard to reach an agreement between the House and the Senate on the final version of this critical legislation. That agreement is reflected in this bill which we have just passed and which the House passed earlier today.

Mr. President, later in my statement I will provide a detailed section by section analysis and statement of legislative history of the final version of the bill. The analysis and statement has been generally agreed to by the principal sponsors of the legislation—Congressmen UDALL and YOUNG in the House and Senator STEVENS and me in the Senate.

However, before that statement, I would like to express some additional views of these "1991" amendments. These views are not detailed interpretations of particular provisions of the legislation. Rather, they are more general in nature, expressing this Senator's overall views on how these amendments should be interpreted and applied.

Mr. President, I cannot overemphasize the importance of this legislation to Alaska's Native people. The Alaska Native Claims Settlement Act of 1971 marked an historic experiment in this country's dealings with Native Americans. The essence of that experiment was to make business corporations the recipients and holders of the proceeds of the settlement. All Alaska Natives were then made shareholders of these corporations.

To ensure that Alaska's Native received the full benefits of the settlement, Congress imposed a 20 year restriction on the ability of individual natives to sell or otherwise transfer their stock. That 20 year period will expire in 1991. There is grave concern in the native community that expiration of alienability restrictions on stock in 1991 will lead to loss of Native ownership and control of settlement lands.

As a result, this legislation provides a menu of options designed to maintain Native ownership of settlement lands and to ensure that future generations of Natives share in the proceeds of the settlement. The shareholders of each corporation will be able to select the options which best meet their needs.

The bill establishes a general rule that restrictions on the alienability of stock will continue indefinitely, or until a majority of the shareholders of the corporation elect to terminate those restrictions. The shareholders of some regional and village corporations believe it to be in their best interests to hold an immediate vote of the shareholders to determine whether stock restrictions should be maintained. These corporations will utilize the "opt-in" alternative. Shareholders of other corporations believe that such a vote should only be taken when a significant percentage of the shareholders demand such a vote through the exercise of petition rights. These corporations will elect to use the "opt-out" alternative provided by the bill. Finally, the shareholders of a few corporations desire to maintain alienability restrictions on their original stock, yet have the ability to sell other stock in their corporation. These shareholders' corporations will elect to use the "recapitalization" alternative in the legislation.

The options for addressing alienability restrictions constitute only a portion of this legislation, albeit a very important portion. There are also options allowing the corporations, by majority shareholder vote, to issue stock to Natives born after 1971, to issue additional stock to Native elders, and to create States trusts for the benefit of the shareholders.

Although this is a consensus bill—supported by an overwhelming majority of the Alaska Native population—it was possible to achieve a consensus only by providing this extensive array of options for corporate action. This situation is reflective of the diverse points of view within the Alaska Native community regarding the most appropriate way to ensure that future generations of Alaska Natives continue to benefit from the settlement of their aboriginal land claims.

It is my hope that all who interpret and implement this legislation—whether they be shareholders, corporate directors and officers, lawyers or judges—will keep in mind the optional nature of the legislation. It has been stated many times that ANCSA is a "living" settlement. It is not a fixed formula which is cast in stone and incapable of adopting to changing reality. Rather, it is a flexible framework designed to provide Alaska Natives with a maximum amount of self-determination as they strive to balance the needs of their present and future generations. And balance is essential if ANCSA is to be a success story.

Mr. President, I could cite numerous examples of how this Nation's traditional Native American policy has failed. In 1971 the Congress rejected that policy in favor of the settlement structured in ANCSA. The people of Alaska have now had 16 years of experience with the settlement. Based on that experience the people of Alaska—Native and non-Native—have recommended changes to the original act and have worked very hard to enact those changes. Why? Because we do not want this settlement to be another failure. Because we want ANCSA to be a success.

I take pride in the legislation before us. It is the final product of the efforts of many Alaskans concerned about this issue. I believe I represent the views of all of those people when I say that the key to making ANCSA succeed is flexibility—flexibility that recognizes the different desires and needs of every corporation, every region and every village in the State—flexibility that permits Native shareholders to adapt their corporations to ever changing reality. The "1991" amendments provide that flexibility.

I must also briefly address the issue of sovereignty. There is a great deal of controversy in Alaska over the issue of whether Alaska Native organizations may exercise some degree of governmental authority over lands or individuals. The controversy involves several complex questions—which Native groups might qualify as tribal organizations, what powers such organizations might possess, and whether there is Indian country in Alaska over which such organizaton might exercise governmental jurisdiction. The "1991" amendments are scrupulously neutral on this controversy. It is an issue which should be left to the courts in interpreting applicable law. This legislation should play no substantive or procedural role in such court decisions. It was and is my intent that this legislation leave all parties to the sovereignty controversy in exactly the same statute as if the amendments were not enacted.

Mr. President, we would not have been able to pass this legislation without the extraordinary efforts of several people. First, I want to thank the staff members of the Committee on Energy and Natural Resources—Mike Harvey, Tom Williams, Gary Ellsworth, and Tony Bevinetto—who contributed so much to this bill. Their efforts and guidance are always appreciated.

Janie Leask, Morris Thompson, Oliver Leavitt, Glenn Fredericks, Roy Huhndorf, Byron Mallot, Chris McNeil, Sam Kito, Roy Ewan, Don Nielsen, Ralph Eluska, Ed Thomas, Al Kookesh, Rose Mahre, Mike Irwin, Willie Hensley, John Schaeffer, John Shively, the late Ivan Gamble, and many other members of the Alaska Federation of Natives devoted considerable time and resources to this endeavor. In particular, I want to recognize the contribution made by Julie Kitka of the Alaska Federation of Natives. Julie's unwavering devotion to this project has been above and beyond the call of duty. It is safe to say that without Julie's able assistance we would not be passing this bill today. We all owe her a huge debt of gratitude.

I also want to extend a special thank you to Greg Chapados of Senator STEVENS' staff and Tom Roberts and John Moseman of my staff. Their remarkable dedication of time, energy, and thought to this legislation is reflected in the provisions of the bill.

Mr. President, before beginning the section-by-section analysis, I must thank Congressman MO UDALL and my Alaska colleagues, Congressman DON YOUNG and Senator TED STEVENS. Congressman YOUNG's skill in moving this legislation through the House with Chairman UDALL's assistance was nothing short of extraordinary. Alaska Natives could not have a better representative in Congress than DON YOUNG. And finally, as one of the original authors of ANCSA, Senator STEVENS' historical perspective was invaluable to all of our efforts.

Mr. President, I submit the following section-by-section explanation of the final version of this legislation on behalf of myself and Senator STEVENS.

The House passed H.R. 278 on March 31, 1987, without opposition. On October 29, 1987, the Senate passed an amendment in the nature of a substitute for H.R. 278, once again without opposition. Rather than requesting a conference to reconcile, the differences between the Senate amendment and the House bill, Congressman UDALL, Congressman YOUNG, Senator STEVENS and I have developed a further amendment in the nature of a substitute to the Senate amendment. In large measure that amendment, hereafter referred to as the House amendment, is drawn from the text of the Senate amendment and provides for certain technical changes in the Senate bill. Significant differences between the House and Senate amendments are as follows:

SECTION 2. FINDINGS

A major issue which has complicated the consideration of this bill has been its potential impact upon the question of whether or not tribal entities with self-governing powers continue to exist in the State of Alaska. It was generally agreed that that issue should be decided under existing law and that these amendments to the Alaska Native Claims Settlement Act (ANCSA) should be scrupulously neutral on that question. Paragraph (8) of Section 2 of the Senate amendment made a Congressional finding that these amendments should not supercede or rescind certain specific provisions of ANCSA or to confer upon any Native organization sovereign powers. It was felt, upon the House side, that the language tended to upset the neutrality approach. The House amendment modifies the finding to provide that nothing in the amendment is intended to work an implied repeal or modification of *any* provision of ANCSA. In addition, paragraph (8)(C) was modified to provide that nothing in the amendment would confer on, *or deny to,* a Native organization sovereign powers.

SECTION 3. DEFINITIONS

The Senate amendment includes most of the definitions from the House bill and adds a number of new definitions including those for "group corporation," "urban corporation", "settlement common stock", instead of the House named "native common stock", "replacement common stock", "alienability restrictions", and "state chartered settlement trust".

The proposed substitute utilizes the Senate definitions for the most part, although a technical change is made in the name of the "state chartered settlement trust" to "state registered settlement trust". This clarifies that such a trust established by a native corporation shall be done so under the existing laws of the State of Alaska, which presently permit the establishment and registration of such trusts.

SECTION 4. ISSUANCE OF STOCK

House bill—The House bill amends Section 7(g) of ANCSA to establish two types of stock: Native Common Stock and other unnamed additional stock. The section provides that up to 100 shares of additional native common stock could be issued for no consideration, if authorized by an amendment to the articles of incorporation, to natives born after 1971, native elders age 65 or older, and certain natives who missed the original enrollment under ANCSA. The additional stock, which is also subject to issuance pursuant to an amendment to the articles of incorporation of the corporation, may be subject to a variety of technical rules including division into classes, preferences and other specific rights and can be restricted in issuance to native elders or spe-

cific groups of natives so long as the groups do not discriminate in favor of natives by place or residence, family, or position as an officer, director, or employee of a native corporation or a stockholder of another native corporation. The stock can also be issued as a dividend or distribution. This section also contains a variety of procedural sections regarding the issuance of the stock and its effect on existing stockholder rights.

Senate Amendment—The Senate amendment contains a similar provision. The amendment defines the House-named "native common stock" as "settlement common stock" and also limits issuance of such stock for no consideration or less than fair market value to natives born after December 18, 1971, natives who missed the original enrollment, or native elders 65 years or older. As with the House bill, no more than 100 shares of settlement common stock can be issued under (g)(1) to any one individual. Section 7(g)(2) provides for the issuance of other forms of stock similar to the House bill and with similar, specific provisions concerning the division of such stock into classes, rights, and preferences and other limitations. A variety of other specific provisions including provisions regarding disclosure to the shareholders on the amendment to the articles of incorporation are included. The provision also permits a vote by the at-large shareholders at to whether to permit sharing of Section 7(j) and (m) distributions which at-large shareholders have a right to receive.

The House amendment adds additional disclosure requirements that would apply in certain cases in which a Native Corporation decides to exercise the option (set out in the revised Section 7(g)(2) of the Settlement Act as it would be amended by the bill) to issue additional classes of stock that might be acquired by persons other than the present shareholders. In such a case, under the new Section 7(g)(3), the board of directors would have to inform shareholders at least 60 days in advance of any vote on an amendment that would authorize issuance of such "(g)(2)" stock. This advance notice would have to be in a statement separate from any other information the board might distribute, and would have to be in both English and Native languages used by the shareholders. In recognition of the varying degrees of literacy among Alaska Natives, the amendment authorizes the board to provide the information in recorded sound form (E.G., a cassette or a recorded announcement for use by rural radio stations) as well as in writing. To ensure that a shareholder vote about possible issuance of "(g)(2)" stock in some cases be on an informed basis, the House amendment further provides that if at least 10% of the shareholders request the board assist in distributing materials in opposition to such a proposal, the board must comply. It should be noted that these special notification requirements of the revised Section 7(g)(3) are supplementary to any other notification requirements of law.

Section 7(g)(3) thus provides additional assurance for shareholders to inform them, in their own language, of the possibility that the authorization of classes or series of stock could cause the outstanding shares of Settlement Common Stock to represent less than a majority of the total voting power of the corporation. A Native Corporation subject to this provision must inform its shareholders in the primary Alaska Native languages used by the shareholders of Corporation. The information required to be provided in the Native language shall be the disclosure that the authorization of the additional stock could cause the change in the majority of the total voting power.

The proposed amendment adopts the provisions of the Senate version of Section 4 with a change which clarifies that a corporation may present a series of decisions regarding issuance of stock to shareholders en block by a single vote.

The phrase "Notwithstanding any other provision of law" which appears in section 4 and throughout the Senate amendment has, with one exception, been deleted from the House amendment not only in the Section 4 rewrite of Section 7(g) of the Alaska Native Claims Settlement Act, but also from other Sections of the amendment. The deletion of the phrase is intended to indicate that the amendment does not preempt the application of State law to Native corporations except to the extent a particular provision of State law is inconsistent with a particular Section of the House amendment.

SECTION 5. SETTLEMENT COMMON STOCK

House Bill—This section amends Section 7(h) of ANCSA to provide specific rights and restrictions on native common stock, the origianal stock issued under ANCSA. Many of the provisions are from the original sections of ANCSA and are included in this complete substitute for the Current Section 7(h) of ANCSA.

The House bill contains a new provision regarding inheritance of native common stock. This provision provides that ownership of native common stock may be transferred in accordance with the last will and testament of the holder of such stock or under applicable laws of intestacy. It the owner fails to dispose of it by will and has no heirs under the laws of intestacy, the stock shall escheat to the appropriate corporation. This provision also provides the corporation a right of repurchase for fair market value of such stock if it is transferred by devise or inheritance to a person not a Native or descendant of a native. The provision also provides that any common stock transferred through inheritance to a person not a Native or a descendant of a Native shall not carry voting rights and for the restoration of such voting rights if the stock is later held be a native or a descendant of a Native.

The House bill also provides a general authority to Native corporations to amend their articles of incorporation to permit repurchase of Native common stock from individual shareholders.

Subsection 7(h)(1)(D) provides for Congressional extension of restrictions on alienation on all Native corporation stock unless and until a vote is taken by the shareholders of any specific native corporation to terminate such restrictions or in the case of certain named corporations, unless such restrictions are terminated under Section 6 of the House bill.

Subsection 7(h)(2) describes how a vote to terminate restrictions is to be taken.

Subsection 7(h)(6) provides specific authority under which an amendment to the articles of corporation for the issuance of new stock, transfer of assets to a qualified transferee entity, or a resolution to terminate restrictions is adopted. These include requirements for proxy solicitation, certain petition rights by which shareholders may submit certain questions directly to the corporation, and dissenters' rights.

Senate amendment—The Senate amendment also rewrites Section 7(h) and contains similar provisions regarding settlement common stock. A new provision permitting inter vivos transfers by gifts of settlement common stock to certain relatives is contained in Section 5. Provisions regarding termination of restrictions are not contained in this section.

Inheritance of settlement common stock is similar to the House bill except that the Senate amendment provides that stock which escheats to a corporation shall be canceled. A detailed provision regarding the right of a native corporation to purchase, for fair value, settlement common stock transferred to a person not a native or descendant of a native is also included. The Senate amendment does not include the general right to repurchase stock by a corporation included in the House bill.

The Senate amendment names the stock which replaces the original stock issued under ANCSA if alienability restrictions terminate as replacement common stock. The Senate bill also includes a provision regarding the effect of replacement common stock in other affected stockholders.

The proposed amendment adopts the Senate bill provisions for section 5 with several technical changes.

SECTION 6. VILLAGE AND URBAN GROUP CORPORATIONS

House bill—This section is Section 10 of the House bill entitled "Village and Urban Corporations: Native Groups". This section contains technical amendments conforming the provisions of ANCSA regarding village, urban and group corporations to the provisions of these amendments. This relates to the drafting style of ANCSA, which dealt with regional corporations and then provided which general sections applied to village and urban corporations and groups.

Senate amendment—The Senate amendment provides one section regarding the applicability section of 7 (g), (h), and (o) to village corporations, urban corporations, and group corporations.

The proposed amendment adopts the provisions of the Senate version of Section 6.

SECTION 7. PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

House bill—House provisions regarding this section were contained in Sections 5 and 6 of the House bill. These provisions include new subsections 7(h)(6) (A) through (E). In these provisions, the House bill provides that an amendment to the articles of incorporation to terminate restrictions must be approved by an affirmative vote of at least a majority of outstanding shares of native common stock entitled to vote on such amendment. Other amendments including issuance of new stock or transfer of assets shall be approved by a vote of at least the majority of a quorum representing at least 51% of the votes represented by the capital stock of the corporation which are entitled to vote on such action.

The House bill also provides in Section 5 for the use of shareholder petitions in certain circumstances. These petitions would permit 15% of the holders of Native common stock, ⅓ of the outstanding shares of Native Common Stock, in the case of termination of restrictions on Native common Stock, to petition the board of directors for a vote on such action. A variety of procedural provisions regarding the petitions are included in Section 5.

Senate amendment—The Senate amendment includes the procedures for considering amendments and resolutions including basic procedures regarding shareholder petitions, and the determination of voting

power of a Native corporation in relation to such votes in a separate new section 36 of ANCSA. The new section establishes a basic procedure by which the board approves an amendment or resolution concerning issues such as the issuance of additional stock, a vote on termination of alienation restrictions, or creation of dissenters' rights. The provision also includes standards regarding shareholder petitions and establishes a general voting standard for passage of an amendment or resolution of a majority of the total voting power of the corporation or a level of total voting power greater than a majority but less than ⅔ of the total voting power if such a higher voting standard is established by an amendment to the articles of incorporation. In this section, total voting power is defined as all outstanding shares of stock that carry voting rights except shares not permitted to vote on the specific amendment or resolution in question because of restrictions in the articles of incorporation.

The Senate amendment authorizes the board of directors of a Native corporation to exclude the value of land, and interests therein, from the written notice required by the new Section 36 of ANCSA to the extent particular lands, or interests therein, are "committed by the corporation to traditional or cultural uses" or are of "speculative value" on the date the notice was prepared. These standards are similar to the standards set forth in the same sections of H.R. 278 as passed by the House of Representatives.

The proposed amendment adopts most provisions of the Senate bill. Pursuant to the House amendment, for the purposes set forth in Section 36 and 38 of ANCSA the board of directors of a Native corporation is authorized not to appraise or otherwise determine the value of land, and interests therein, if the corporation received conveyance of the land pursuant to Section 14(H)(1) of the ANCSA or if the land is used as a cemetery. With respect to the surface estate of land owned by a Native corporation, the board is authorized not to appraise or otherwise determine the value of surface estate which is not "developed", as is defined in Section 907 of the Alaska National Interest Lands Conservation Act (ANILCA), is not otherwise subject to real property taxes and is used by shareholders of the corporation for the taking of fish, game, timber, plants or other wild, renewable resources for "subsistence uses" as is defined in Section 803 of ANILCA. Lastly, with respect to both the surface and subsurface estate of land, the board is authorized not to appraise or otherwise determine the value of surface or subsurface estate which the board believes is of speculative economic value. In reviewing a board decision in this regard, the standard of judicial review should be whether the board acted in good faith when it determined that a particular parcel of surface or subsurface estate was of speculative economic value.

SECTION 8. DURATION OF ALIENABILITY RESTRICTIONS

House bill—The House bill contains general provisions regarding duration of alienability restrictions in Section 5 and special provisions regarding the Bristol Bay Native Corporation and village corporations in that region in Section 6. The general rule contained in Section 5 provides for Congressional extension of alienability restrictions of Native corporation stock until a vote is taken by the corporation shareholders to remove such restrictions. The special provisions regarding the Bristol Bay Native Corporation and any village corporation located in the Bristol Bay region provide that the board of directors of any eligible corporation may adopt within one year of the date of enactment of this Act, a resolution under Section 7(h)(2)(f) providing for use of these special provisions. These provisions provide that a vote must be taken on a resolution regarding the continuation of alienability restrictions. If the resolution to extend alienability restrictions did not pass, these restrictions terminate within a certain time. If a resolution to extend restrictions passes, extension of restrictions would be in force for a period of not less than twenty but not more than fifty years as specified by the resolution.

This section also provides for the mandatory payment of dissenters' rights to shareholders dissenting from the resolution and establishes voting standards for the passage of such resolutions. Additionally, Section 7(a)(f)(1) provides the terms and conditions under which dissenters rights would be paid, including valuation of any common stock as restricted stock and the exclusion of certain land values for the purposes of valuating of such stock. The provision also provides for the payment of dissenters' rights though the use of a non-negotiable note payable under certain terms and conditions.

Senate amendment—The Senate amendment combines various alternatives for decision-making on alienability restrictions into one section. The provision, the new Section 37 of ANCSA, establishes a general rule that alienability restrictions shall continue until terminated under one of three procedures. The opt-out procedure is similar to the procedure in Section 5 of the House bill in which a Native corporation may amend its articles of incorporation to terminate alienability restrictions on a shareholder vote. The so-called opt-out vote specifies the time of termination and may be voted on upon not more than once prior to 1991 and not more than once annually thereafter.

A recapitalization procedure is included in the Senate amendment. This procedure permits a corporation to amend its articles of incorporation to implement a recapitalization plan. The plan may be used by shareholders to approve a variety of recapitalization issues in one vote, including the decision on the maintenance of extension of alienability restrictions. The Senate bill also includes approval of additional issuance of common stock or other new stock including in the case of Cook Inlet Region, Inc., the approval of a plan for stock options as incentives to officers and employees. The recapitalization procedure is authorized until December 18, 1991 at which point the authority terminates.

The Senate amendment included provisions that had the effect of allowing corporations electing to use the so-called "recapitalization option" of the revised Section 37(c) to forthwith terminate alienability restrictions even in those cases in which the same corporation had previously acted to extend alienability restrictions for a specified period of time. This ability to prematurely end an otherwise-established period for alienability restrictions was not available, under the Senate amendment, to a corporation that instead elected to utilize the "opt-in" procedure in the revised Section 37(d). The House amendment eliminates this disparity by revising Section 37(c) so that if a corporation utilizing this option should act to continue alienability restrictions for a specified time, those restrictions could not be revoked prior to the expiration of such specified period.

The third procedure is the opt-in procedure. This is similar to the Bristol Bay provisions of Section 6 of the House bill but applies not only to the Bristol Bay regional and village corporations and other named regional and village corporations in section 8 of the House bill but to all regional corporations and the village corporations in the Bristol Bay and Aleut regions. This provision permits corporations to require a mandatory vote on continuation of alienability restrictions and the mandatory payment of dissenters rights to dissenting shareholders on such vote. In addition to provisions in Section 9 regarding dissenters' rights similar to those contained in the House bill, the Senate amendment includes an option for payment of dissenters rights by the issuance of alienable common stock in lieu of cash payments.

The proposed amendment generally adopts the provisions of the Senate verion of Section 8. A number of changes were made including deletion of authority for a stock incentive plan by Cook Inlet Region, Inc. under the recapitalization procedure and the limitation of the authority for recapitalization to regional corporations. The proposed amendment also contains a change clarifying that no restrictions may be lifted under any procedure prior to December 18, 1991. A change in the opt-out procedure provides for periods of 2 or 5 years respectively as the minimum time period by which a corporation may vote to terminate restrictions if it has previously voted not to terminate restrictions.

The proposed amendment also makes clear that the automatic termination of restrictions under the opt-in procedure shall not take effect if the board of directors fails to submit for a shareholder vote an amendment to the articles of incorporation regarding termination which complies with the requirements of the opt-in section.

The amendment provides that restrictions on alienation attached to ANCSA settlement stock cannot be removed until December 18, 1991. This does not mean, however, that the authority to issue additional classes of stock under Section 7(g)(2) or as part of a recapitalization plan cannot be exercised prior to that date so long as stock restrictions are not removed prior to December 18, 1991.

SECTION 9. DISSENTERS' RIGHTS

House bill—This section contains the House provisions regarding dissenters' rights in Section 6. Under that section, the stock holders of a corporation may adopt a resolution authorizing dissenters' rights. If such a resolution is adopted, the dissenters' rights valuation procedure is governed by the provisions of section 6 in which dissenters' rights are defined in the special provisions applicable to the Bristol Bay Native Corporation and certain other named corporations.

Senate amendment—The Senate amendment includes a new section 38 of ANCSA concerning dissenters' rights. That section provides the specific terms and conditions under which dissenters' rights may be exercised. Under the opt-out procedure, dissenters will be paid for their stock only if the Native corporation had adopted a resolution granting such rights contemporaneous with the vote on whether alienability restrictions should be terminated. Under the opt-in procedure, the grant of dissenters' rights is mandatory if alienability restrictions are continued, but the native corporation can choose either to pay in cash or a short-term

note or to issue alienable stock to dissenters. The new section also includes provisions regarding the application of existing state law governing dissenters' rights, the valuation of common stock for purposes of making payment to dissenters, and the use of a negotiable note (adjusted in face amount to reflect post-vote dividends) to make payment in lieu of cash. Except for the use of a negotiable note, the valuation and payment procedure is similar to that contained in the House bill.

The proposed amendment contains the provisions of the Senate version of Section 9. As with the House bill, dissenters' rights are not to be valued based on liquidation value of the corporation since dissenters as a minority cannot liquidate the corporation. Instead, the value of the restricted stock would represent the discounted cash flow of expected dividends, the only cash benefit attributable to restricted stock.

A matter of great concern to the Native corporations has been the possibility that if they are required to make payments to claimants under the dissenters' rights provisions, it might be necessary to undertake the onerous and expensive task of formally appraising the putative market value of large tracts of land that in fact are not developed and are not used for commercial purposes. The Senate amendments addressed this by authorizing the board of directors to withhold information concerning the values of such lands. The proposed amendment rejects this approach. Instead, the proposed amendment (in the revised Section 38(c) of the Settlement Act as it would be amended by the bill) would allow the board of directors to act so as to exclude from valuation three categories of land held by the corporation.

The three categories are: (1) any land that was conveyed to the corporation by the United States under Section 14 (h)(1) of the Settlement Act (which deals with historic areas and cemetery sites and provides for conveyance of such to regional corporations) and any other land used as a cemetery (including cemeteries owned by corporations other than regional corporations);

(2) surface estate in land that is both exempt from real estate taxation under the Land Bank provisions of the Alaska National Interest Lands Conservation Act (as it would be amended by this bill) and is also used by the corporation's shareholders for subsistence uses (as defined in the Alaska National Interest Lands Conservation Act); and

(3) any land or interest therein that the board of directors believes in good faith to be only of speculative value.

These categories take on an added importance because the proposed amendment would also allow the exclusion of the same types of land from any lien upon a corporation's real property interest that might be established to secure a note issued pursuant to the revised Section 38(d) of the Settlement Act as it would be amended by the bill.

SECTION 10. SETTLEMENT TRUST OPTION

House bill—There is no similar provision to this Section in the House bill. The House bill did include in section 7 a provision authorizing the transfer of assets to a qualified transferee entity under certain terms or conditions.

Senate amendment—The Senate amendment did not include the authorization for transfer of assets to a qualified transferee entity. Instead, the authorization for a Native corporation to convey certain assets to a settlement trust established under existing Alaska State law is included. Under the terms of this section, a new Section 39, the Native corporation utilizing Alaska state law may establish a trust for the benefit of its shareholders. The general purpose of the trust will be to preserve the heritage and culture of natives and to promote the health, education, and welfare of its beneficiaries. The trust may not operate as a business or convey land or an interest in land received from a Native corporation creating it or discriminate in favor of a group of individuals composed only or principally of employees, officers, or directors of the corporation. A variety of provisions regarding the management of the trust are included in this new section.

The proposed amendment adopts the provisions of Section 10, except that the name of the trust is changed to "Settlement Trust" to make clear that existing State of Alaska law regarding the establishment of trusts shall be utilized and that no additional State of Alaska law authority is required for the establishment of such trusts.

This section represents a compromise between Section 7 of the House bill and Section 10 of the Senate bill. It honors the recent vote taken on this subject at the most recent Alaska Federation of Natives convention.

The Settlement Trust section is intended to enable Native Corporations to convey assets to Settlement Trusts in which the assets may be better managed for the benefit of the Alaska Natives. The provision is in recognition of the fact that the corporate form of ownership, as mandated by the Act, has not always served the best interests of the Alaska Natives, and that in many cases the purposes of the Act may be carried out better by allowing Alaska Natives to alter their form of ownership.

Settlement Trusts are expected to serve two principal functions. They are intended to be permanent, Native-oriented institutions which shall hold and manage, in perpetuity, any historic or culturally significant surface lands, sites, cemeteries, traditional use areas, or monuments, for the benefit of the beneficiary population. It shall manage any other surface lands conveyed or culturally significant assets in like fashion. The Trusts will require income generated from assets conveyed to it, or other sources, to carry out these responsibilities.

The other prime function relates to the health, education and economic welfare of its beneficiaries. Trusts may receive conveyances of securities, cash, or other assets which it must manage prudently, and passively, in the interests of its beneficiaries, and in conformance with the terms and conditions set forth in the trust instrument and this Act. At the discretion of the trustees, the income generated from these assets, and, if permitted, Trust assets themselves can be used to provide scholarships and other educational benefits. Assets can be used to improve health care delivery or facilities, pay for needed health care and otherwise be devoted to bettering the health of the beneficiary Native community. Finally, the Trust assets may be used to bolster the economic well-being of the beneficiaries. Trust distributions may be used to fight poverty, provide food, shelter and clothing, and serve comparable economic welfare purposes. Additionally, cash distributions of trust income may be made on an across-the-board basis to the beneficiary population as part of the economic welfare function.

Subsection (a)(1)(A) sets out the conveyances to be covered by this section. As such, it limits the applicability of this section to conveyances that meet the requirements set forth herein. Existing law limits the use of Net Operating Losses to a Native Corporation. Therefore a transfer of such Net Operating Losses to a Settlement Trust would not permit the realization of an NOL tax benefit. Section 39 does not in any way alter that limitation. As indicated in subsection (a)(4), it also does not deny Native Corporations the ability to make other types of transactions currently permitted under state law and the laws of the United States.

Subsection (a)(1)(B) requires shareholder approval of any resolution to convey all or substantially all of the assets of the Native Corporation to the Trust. When read with the protections provided in Section 36, this subsection evidences clear Congressional intent to provide shareholders with sufficient protection and disclosure rights with respect to the crucial decisions involving Native Corporation conveyances to Settlement Trusts.

Subsection (a)(2) is an absolute prohibition against conveyance of subsurface estate to a Settlement Trust, with the exception of timber resources. In the event timber resources are conveyed to a Settlement Trust, they can be harvested only in accordance with the conditions set out in subsection (c)(2).

Subsection (a)(3) is intended to ensure that valid creditors' rights are not interdicted by the conveyances authorized by this section. It also clarifies the issue of dissenters' rights with respect to conveyances to Settlement Trusts. Even in the applicable situations, dissenters' rights arise only to the extent they exist under State law.

Subsection (4) has been included to make sure that the Settlement Trust authorities provided herein are not viewed as a substitute for any other rights held by Native Corporations to create or administer trusts, or to engage in any other transaction permissible under the laws of the State or the United States.

Subsection (b)(1) establishes certain requirements and characteristics of the Settlement Trust. By doing so, Congress expressly intends to preempt State law with regard to these elements of Settlement Trusts. By requiring that these trusts be registered with the State of Alaska, Congress seeks to establish that the laws of the State of Alaska, rather than any other state, apply and that the State is the proper venue and jurisdiction. Congress does not, however, intend to prohibit diversity jurisdiction in the federal courts.

While setting forth Settlement Trust characteristics, Congress intentionally left discretion in the Native Corporations to formulate and state the terms and conditions governing the Trust through the trust instrument, consistent with the provisions of this Act and State law. Specifically, the settlor Native corporation shall have the authority to set forth the terms and conditions contained in the trust instrument, including but not limited to the employment of agents or professionals, investment standards, bonding requirements, indemnities, accumulations, distributions, or restrictions on alienation of beneficial interests. State courts will retain their traditional authority to determine question as to trust validity, administration, and construction. Enforcement of trust terms, application of prudent man requirements, and other conventional trust oversight functions will remain within the purview of State courts, to the extent

timber harvest, the tract is "developed" only during the period of time the harvest is actually being conducted. With respect to a tract of land which has been subdivided, at the time the plat which effectuated the subdivision is resubdivided to return the tract to its original configuration, the tract is no longer "developed" and the land protection immunities afforded by this section again automatically apply.

Regardless of its prior undeveloped state, upon the recordation of a plat, land identified or described on the plat shall be subject to payment of state and local property taxes, if any, which, but for the land * * *

However, during the period of time the land is subject to such pledge or commitment it shall continue to receive the immunities afforded by Subsection (d)(1)(4)(iii)-(v) with respect to claims made by persons or entities to whom the land or interest has not been expressly pledged or committed. Land is "expressly committed" if it is described with sufficient clarity for the agreement to be enforceable, as regards the land, under State law. At the time a parcel or tract of land is no longer expressly pledged or committed, the land protection immunities afforded by this section shall again automatically apply to the land within the parcel or tract.

The determination as to which timber resources are developed and when they revert to undeveloped status shall be made on the basis of notifications filed with the State of Alaska by the Native landholder, pursuant to requirements of the State Forest Resources and Practices Act, AS 41.17.010 et seq., and regulations promulgated thereunto. Once an operator, after giving notice to the Commission of Natural Resources of its Proposed operations, commences operations, the lands designated by the operator in the notification will be deemed developed. The period of harvest will end and protection immunities afforded by this section, would have been assessed against the land during the thirty months preceding the final approval.

For the purposes of this section "final approval" means the final approval of the plat by the last state or local authority with authority to pass upon such plat. The tax due as a result of the final approval may be paid over a two-year period, shall apply only to the smallest practicable tract integrally related to the subdivision project and may not be assessed against "remainder parcels" or against the value of subsurface resources or timber.

Even though land has not been "developed", the land protection immunities provided by this section do not apply during the period of time the land is leased to a third party. In addition, the land protection immunities described in subsection (d)(1)(A)(iii)-(v) also do not apply with respect to a claim arising from a loan or commercial transaction involving a person or entity who or which has been given a security interest in the land in exchange for the loan or to whom the land has been expressly committed in a commercial transaction in a valid agreement.

The developed land revert to undeveloped status when the Native landowner, or its designated operator, has completed harvest operations and notifies the Commissioner that it has ended operations in the notification area.

As enacted in 1980, Section 907 of the ANILCA established the Congressional policy that Native and Native corporation land should not be involuntarily lost as a result of the execution of judgments based on claims or creditors which arose either before or after December 2, 1980, or of insolvency or bankruptcy proceedings.

For that reason, Section 907 authorized Natives and Native corporations to protect undeveloped land from creditors by executing a land bank agreement without regard to whether executing the agreement might render the Native or Native corporation insolvent. In that regard, to the extent the execution of a land bank agreement might otherwise have violated 11 U.S.C. 548, A.S. 34.40.010 or other laws generally affecting creditors' rights, Section 907, as originally enacted, superceded such statutes insofar as they might otherwise have applied to void the execution of such an agreement.

The automatic extension of the land protection immunities afforded by this section reaffirms this important Congressional policy. As a matter of law, the section automatically protects Native and Native corporation land from claims of creditors which arose either before or after December 2, 1980, from the execution of judgments based on such claims, and supersedes title 11 of the United States Code, other State and federal insolvency and moratorium laws and all other State and federal laws generally affecting creditors' rights.

With respect to the power of the State and Federal Governments to condemn Native and Native corporation land which is automatically afforded the land protection immunities set forth in this Section, such lands are subject to condemnation to the same extent they would have been subject to condemnation if the landowner had entered into a land bank agreement authorized by Section 907 of the ANILCA as originally enacted.

SECTION 12. CONFORMING AMENDMENTS

House bill—The House bill contains conforming amendment to Section 21 of ANCSA in Section 14.

Senate amendment—The Senate amendment contains a variety of conforming amendments.

The proposed House amendment deletes a Senate amendment to Section 21(c) of ANCSA. The Senate amendment had added a new sentence at the end of Section 21(c) as previously amended. The new sentence clarified that, for purposes of establishing the tax basis of ANCSA lands, the receipt of advance payments, including bonuses and advance royalties, does not constitute "first commercial development" and therefore does not require the establishment of the tax basis of these lands at that time.

The proposed House amendment deletes a Senate amendment to Section 21(c) of ANCSA. The Senate amendment had added a new sentence at the end of Section 21(c) as previously amended. The new sentence clarified that, for purposes of establishing the tax basis of ANSCA lands, the receipt of advance payments, including bonuses and advance royalties, does not constitute "First commercial Development" and Therefore Does not require the establishment of the tax basis of these lands at that time.

Section 21(c) of ANCSA was substantially modified in 1980 by Section 1408 of ANILCA. The ANILCA amendment established the method for determining the tax basis of lands conveyed to Native Corporations under ANCSA. This provision set the tax basis of ANCSA lands at the fair market value of the lands at the time of receipt but also permitted the Native Corporation, in the alternative, to set the basis at the fair market value of the lands at the time of "first commercial development.

At the time of the passage of the ANILCA amendment to Section 21(c), Native corporations received assurances from the Internal Revenue Service and the Department of the Treasury that the term "first commercial development" did not include the receipt of advance payments, such as bonuses or advance royalties, under the terms of an exploration agreement, lease option agreement, or oil and gas lease, even through depletion deductions were subsequently taken by the Native Corporation. Indeed, any other interpretation would run directly counter to both the explicit language and the intent of the amendment contained in Section 1408 of ANILCA. Receipt of advance payments clearly do not constitute "commercial development" of the property; rather, such payments are made as part of an exploratory program.

The Internal Revenue Service recently reconfirmed that the language of the 1980 amendment permits the receipt of advance payments and the claim of depletion deductions without establishing the tax basis under the "First commerical development" standard.

Since the IRS has now confirmed that this interpretation of the statutory directive of ANILCA's Section 1408 amendment, the proposed Senate amendment is now no longer necessary. The deletion of the proposed amendment is made in recognition of the IRS' interpretation of the "first commercial development" standard and no other inference should be taken from its deletion from this legislation.

The proposed amendment adopts the Senate version of Section 12, with the deletion of proposed amendments to Section 21(c) of ANCSA.

SECTION 13. SEVERABILITY

House bill—The House Bill contains a severability provision.

Senate Amendment—The Senate bill contains a similar severability provision.

The proposed amendment to the Senate version of Section 13.

SECTION 14. SECURITY LAWS EXEMPTION

House bill—The House bill contains amendments to Section 28 of ANCSA regarding the existing exemption of Native corporations from securities laws. These amendments generally provided that the existing provisions continue so long as the limitation on alienation is not removed or unless a corporation issues stock to individuals other than natives or descendants of natives. A variety of other technical amendments regarding the securities laws exemptions are included in this section.

Section amendment—The Senate amendment contains several provisions similar to the House bill in this section.

The proposed amendment adopts provisions of the Senate version of Section 14 and provides for technical changes concerning the application of the Investment Company Act of 1940 to subsidiaries of native corporations and the settlement trust.

SECTION 15. ELIGIBILITY FOR FEDERAL PROGRAMS—MINORITY PROGRAMS

House bill—Section 17 of the House bill amends Section 29 of ANCSA to make clear that ANCSA benefits including compensation, revenue, stock, land, or other benefits should not be used as a basis to disqualify an individual or household from participation in food stamp programs, social security assistance, or other programs otherwise

available to Alaska Natives. Section 17 also provides that any corporation with 50 percent or more voting power represented by outstanding Native common stock or other securities held by native or descendants of natives entitled to vote shall be considered a corporation owned and controlled by Alaska Natives for the purpose of federal law.

Senate amendment—Section 29 of ANCSA is amended by the Senate amendment to provide that any compensation including cash dividends stock distributions, partnership, or land interests not in excess of $2,000 per individual may not be used to disqualify an individual or descendant of a native from the food stamp program, social security assistance, or of benefits from any other federal program or federally assisted program. The Senate amendment also contains a provision stating that Alaska Natives shall remain eligible for all federal programs on the same basis as other Native Americans. The section also contains provisions regarding the definition of Native Corporations as minority business enterprises and for purposes of implementation of the Civil Rights Act of 1964.

The proposed House amendment adopts provisions of the Senate version of Section 15 with a technical amendment.

SECTION 16. JUDICIAL REVIEW

House bill—Section 11 of the House bill provides exclusive original jurisdiction over any action challenging the constitutionality of these amendments to ANCSA to be heard in the U.S. District Court for the District of Alaska. The provision also contains a section expressly stating that a monetary judgment may not be entered against the United States as part of any relief pursuant to a court action concerning these amendments.

Senate amendment—The Senate amendment contains a specific statute of limitations for challenging provisions of these amendments. The amendment also contains provisions regarding jurisdiction and procedure and a prohibition against any judgment being entered against the United States similar to the House bill.

The proposed House amendment adopts the provisions of the Senate version of Section 16 with two changes. The statute of limitations for specifically listed challenges is increased from six months to one year, and a challenge to denial of dissenters' rights on an opt-out vote is added to that specific list.

SECTION 17. DISCLAIMER

House bill—section 8 of the House bill provides a disclaimer concerning the effect of these amendments on the scope of Governmental powers, if any, for an Alaska native village entity including those organized under the Act of June 18, 1934 or traditional councils. The disclaimer provides that these amendments shall not be construed as enlarging or diminishing in any way the scope of powers of any of such entities.

Senate amendment—The disclaimer contained in the Senate amendment provides that no provision of these amendments, nor change made by or pursuant to this Act in the status of land can be construed to validate or invalidate or in any way affect any assertion that a native organization (including federal recognized tribe, traditional native council or native council) does not have governmental authority over lands (including management or the regulation of the taking of fish and wildlife) or persons within the boundaries of the State of Alaska or the assumption that Indian Country as defined by 18 USC 1151 and any other authority exists or does not exist within the boundaries of the State of Alaska.

The proposed amendment adopts the Senate version.

Section 17 of the Senate amendments contains a disclaimer to the effect that nothing in the legislation shall be deemed to affect the issue of whether or not there continues to be tribal governing entities in Alaska or Indian country. Included in the section is the statement that:

"No provision of this Act * * * shall be construed to validate or invalidate or in any way affect * * * any assertion that a Native organization (including a federally-recognized tribe, traditional Native council, or Native council organized pursuant to the Act of June 18, 1934 * * *) has or does not have governmental authority * * *

The House would have preferred to retain the disclaimer language contained in Section 8 of H.R. 278 as passed by the House. However, it has been agreed that the Senate language would be retained with the understanding that the inclusion of the three defined entities within the parenthetical phrase would not be taken as a congressional determination that a traditional council or 1934 council was or was not a federally-recognized Indian Tribe.

Additionally, the proposed amendment clarifies the impact of this Act on federal tax collections and enforcement efforts.

In 1971 Congress determined that, pursuant to Section 7(h) of ANCSA, Native corporation stock could not be subjected to judgment executions (including the execution of federal tax judgments obtained by the United States) prior to January 1, 1992, when Native corporation stock previously issued would have been deemed to be cancelled. Section 5 of this Act rewrites Section 7(h) of the Alaska Native Claims Settlement Act to continue this important policy after January 2, 1992, with respect to Settlement Common Stock. Pursuant to Section 5, Settlement Common Stock may not be subjected to execution to satisfy federal tax, or any other, judgments. However, other stock issued by a Native corporation such as stock issued pursuant to Section 7(g)(2) of ANCSA, as amended by this Act, may be subjected to judgment execution.

Similarly, in 1980 Congress determined that land, and interests therein, conveyed to Natives and Native corporations pursuant to ANCSA may not be subjected to judgment executions, including, but not limited to, the execution of federal tax judgments obtained by the United States, during periods of time during which such land, and interests therein, are not developed. Section 11 of this Act rewrites Section 907 of the ANILCA to continue this important policy during periods of time during which land, and interests therein, are not developed, regardless of whether the Native, Native corporation or Settlement Trust who or which owns the land or interest has signed a land bank agreement which includes the land or interest.

Section 17 is intended to clarify that nothing in the Alaska Native Claims Settlement Act Amendments of 1987 is intended to diminish or enlarge the authority of the United States government to assess, collect or otherwise enforce federal tax judgments against Natives, Native corporations and Settlement Trusts by executing upon property other than Settlement Common Stock and land which has not been developed.

The Alaska Native Claims Settlement Act Amendments of 1987 extends the existing exemptions from federal tax judgments for Settlement Common Stock and undeveloped Native land, and the disclaimer in Section 17 is not intended to limit in any way the continued application of these exemptions. The disclaimer does, however, assure that this legislation does not establish any new exemptions from federal tax judgments for property other than Settlement Common Stock and undeveloped Native lands and interests therein.

Section 17 is also intended to clarify that nothing in the Alaska Native Claims Settlement Act Amendments of 1987 is intended to affect, for federal tax purposes, the valuation of any stock issued by a Native corporation.

OTHER PROVISIONS OF THE HOUSE OR SENATE BILL

Section 12 of the House bill contains an authority for regional corporations to convey subsurface estate to village entities which acquired or currently own the overlying surface estate. This provision is not contained in the Senate bill and is not included in the proposed amendment.

Section 8 of the House bill provides that the provisions of Section 7, the Bristol bay region special provisions, may also be utilized by the Aleut Corporation, Cook Inlet Region, Inc., Koniag Inc., and any village within the Aleut and Cook Inlet regions by a vote of the corporation's board of directors within one year of the passage of this act. This provision was not included in the proposed amendment because its provisions are contained within the terms of the opt-in procedure in Section 8 of the conference report.

Both the House and Senate considered including Native Corporations as "state development companies," pursuant to the Small Business Act of 1956 and regulations issued thereto. The House deemed it unnecessary after reviewing the decision of the Small Business Administration in *Appeal of Doyon Construction Co.*, Docket No. SAB-83-9-7-258, November 1, 1983.

Section 7 of the House bill and Section 10 of the Senate bill contain provisions dealing with transfers of corporate assets to subsidiary corporations or trusts. While an Asset Reorganization section is not included in the proposed amendment, such an amendment may be proposed in the future and would receive expeditious consideration by the Committee on Interior and Insular Affairs.

Mr. STEVENS. Mr. President, as I said, it is a matter of great pride for me to stand here with my good friend, the distinguished majority leader, to finish this task.

I move that the Senate concur in the amendment of the House to the Senate amendment to H.R. 278.

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

ONSHORE OIL AND GAS LEASES—H.R. 3479

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate recede from its amendment to the title

to H.R. 3479, a message from the House dealing with onshore oil and gas leases on which the Senate acted earlier this evening.

Mr. STEVENS. There is no objection.

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

AUTHORITY FOR FILINGS BY COMMITTEES

Mr. BYRD. Mr. President, I ask unanimous consent that committees may file reported bills, resolutions, and other matters on Wednesday, January 20, between the hours of 10 a.m. and 4 p.m.

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

EARTHQUAKES HAZARD REDUCTION ACT AUTHORIZATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 466.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 1612) to authorize appropriations under the Earthquakes Hazards Reduction Act of 1977 for fiscal years 1988, 1989, and 1990.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That (a) section 7(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)) is amended by adding at the end the following:

"(7) There are authorized to be appropriated to the Director, to carry out the provisions of sections 5 and 6 of this Act, $5,778,000 for the fiscal year ending September 30, 1988, and $5,788,000 for the fiscal year ending September 30, 1989.".

(b) Section 7(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(b)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $40,540,000 for the fiscal year ending September 30, 1988; and $41,819,000 for the fiscal year ending September 30, 1989".

(c) Section 7(c) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(c)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $28,700,000 for the fiscal year ending September 30, 1988; and $32,100,000 for the fiscal year ending September 30, 1989".

(d) Section 7(d) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(d)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $525,000 for the fiscal year ending September 30, 1988; and $525,000 for the fiscal year ending September 30, 1989".

SEC. 2. Section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) is amended by adding at the end the following:

"(j) COST SHARING.—(1) In the case of any State which has voluntarily engaged in cost sharing by matching Federal grants from the Federal Emergency Management Agency for activities under this Act over the three-fiscal-year period ending September 30, 1987, any such cost sharing that may be required for the fiscal year ending September 30, 1988, or the fiscal year ending September 30, 1989, shall be at a level no higher than the State's average level of such cost sharing over such 3-year period.

"(2) In the case of any State which has not engaged in cost sharing by matching Federal grants from the Federal Emergency Management Agency for activities under this Act over such 3-fiscal-year period—

"(A) no such cost sharing may be required for the fiscal year ending September 30, 1988; and

"(B) any such cost sharing that may be required for the fiscal year ending September 30, 1989, shall be at a level no higher than 25 percent of the cost of the activities involved.

"(3) Nothing in this subsection shall be construed to prevent a State, voluntarily and at its option, from engaging in cost sharing at a level higher than the maximum level which may be required of it under paragraph (1) or (2).".

AMENDMENT NO. 1379

(Purpose: To make an amendment in the nature of a substitute)

Mr. BYRD. Mr. President, on behalf of Mr. HOLLINGS, I send to the desk a substitute amendment for the committee reported substitute.

The PRESIDING OFFICER. The substitute amendment for the committee reported substitute will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. HOLLINGS, proposes an amendment numbered 1379.

Mr. BYRD. 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:

Strike all after the enacting clause, including the amendment to the title of the bill, and insert in lieu thereof the following:

That (a) section 7(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)) is amended by adding at the end the following:

"(7) There are authorized to be appropriated to the Director, to carry out the provisions of sections 5 and 6 of this Act, $5,778,000 for the fiscal year ending September 30, 1988, $5,788,000 for the fiscal year ending September 30, 1989, and $5,798,000 for the fiscal year ending September 30, 1990.".

(b) Section 7(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(b)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $38,540,000 for the fiscal year ending September 30, 1988; $41,819,000 for the fiscal year ending September 30, 1989; and $43,283,000 for the fiscal year ending September 30, 1990".

(c) Section 7(c) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(c)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $28,235,000 for the fiscal year ending September 30, 1988; $31,634,000 for the fiscal year ending September 30, 1989; and $35,454,000 for the fiscal year ending September 30, 1990".

(d) Section 7(d) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(d)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $525,000 of the fiscal year ending September 30, 1988, $525,000 for the fiscal year ending September 30, 1989; and $525,000 for the fiscal year ending September 30, 1990".

SEC. 2. Section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) is amended by adding at the end the following:

"(j) COST SHARING.—(1) In the case of any State which has voluntarily engaged in cost sharing by matching Federal grants from the Federal Emergency Management Agency for activities under this Act over the three-fiscal-year period ending September 30, 1987, any such cost sharing that may be required for the fiscal year ending September 30, 1988, or the fiscal year ending September 30, 1989, shall be at a level no higher than the State's average level of such cost sharing over such three-year period.

"(2) In the case of any State which has not engaged in cost sharing by matching Federal grants from the Federal Emergency Management Agency for activities under this Act over such three-fiscal-year period—

"(A) no such cost sharing may be required for the fiscal year ending Septemer 30, 1988; and

"(B) any such cost sharing that may be required for the fiscal year ending September 30, 1989, shall be at a level no higher than 25 percent of the cost of the activities involved.

"(3) Nothing in this subsection shall be construed to prevent a State, voluntarily and at its option, from engaging in cost sharing at a level higher than the maximum level which may be required of its under paragraph (1) or (2).".

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is now considering H.R. 1612, the Commerce Committee's bill to reauthorize the Earthquake Hazards Reduction Act of 1977.

This year we have once again been reminded of the great threat earthquakes pose to much of the United States. The September earthquake near Whittier, CA, was only moderate in magnitude, but it nonetheless killed several people and caused over $100,000,000 in property damage. Far stronger and deadlier earthquakes are possible not just in California but also in other parts of the West, the Central States, and the east coast.

Congress passed the Earthquake Hazards Reduction Act in 1977 to provide a coordinated, multiagency program for conducting research and, equally important, helping States and localities plan for earthquakes in ways

that can minimize the death and destruction they cause. The program has accomplished much, but much remains to be done. For that reason, I and the Commerce Committee believe the National Earthquake Hazards Reduction Program created under the act should be continued.

In recent days, the Commerce Committee and the two House authorizing committees—Science, Space, and Technology and Interior and Insular Affairs—have discussed the differences which exist between the House-passed version of the bill and the version reported by the Commerce Committee.

As a result of those discussions, we are today offering an amendment in the nature of a substitute which I believe will be acceptable to both the Senate and the House. The proposed amendment provides, as did the original House version, for 3-years authorizations for the earthquake hazard reduction activities of the four principal Federal agencies—the Federal Emergency Management Agency, the U.S. Geological Survey, the National Science Foundation, and the National Bureau of Standards. At the same time, the proposed amendment includes small, targeted authorization increases for Geological Survey programs which the Commerce Committee believes will be of great value. It is my hope that after we pass the bill, amended by the substitute, the House will accept this language and send it to the President for his signature.

Mr. President, I want to thank my colleagues who have worked on this legislation, particularly our committee's distinguished ranking member, Senator DANFORTH. The earthquake program is needed and valuable, and I urge my colleagues to support both the amendment and the bill itself.

Mr. STEVENS. Mr. President, I am happy to be here at this time. My State being most prone to earthquakes, I am happy to see this bill disposed of. I applaud the majority leader for bringing it up, even though it is late in the session.

Mr. BYRD. I thank the Senator.

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

The amendment (No. 1379) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the 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 the third time and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

ACTION WITH RESPECT TO NOMINATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that all nominations received by the Senate remain in status quo, notwithstanding the provisions of rule 31, paragraph 6, with the following exceptions:

Department of Defense: Kenneth P. Bergquist.

Army: Charles W. Bagnal.

Air Force: James A. Abrahamson.

Department of Energy: Robert O. Hunter, Jr.

Department of Housing and Urban Development: Deborah Gore Dean.

Federal Labor Relations Authority: J. Joseph Lydon.

All pending nominations from Department of State and Foreign Service Officer lists.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is no objection.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 99-624, appoints the following Senators to the Eisenhower Centennial Commission: the Senator from Alabama [Mr. HEFLIN], the Senator from Nebraska [Mr. EXON], and the Senator from Kansas [Mr. DOLE].

The Chair, on behalf of the Vice President, in accordance with Public Law 81-754, as amended by Public Law 93-536, appoints the Senator from Maryland [Mr. SARBANES] to the National Historical Publications and Records Commission.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate recessed at 1:25 a.m., subject to the call of the Chair.

The Senate reassembled at 1:28 a.m., when called to order by the Presiding Officer [Mr. GRAHAM].

APPRECIATION FOR OUR STAFFS

Mr. BYRD. Mr. President, every Member of this Chamber well knows that it is more than the 100 Members of this Chamber who contribute to the effective workings of the U.S. Senate. The Chamber functions successfully only through the dedicated and often strenuous efforts of hundreds of people who operate behind the scenes. On this, the final day of the 1st session of the 100th Congress, I want to take a few minutes to recognize some of these individuals who work in the shadow of history and to thank them for the invaluable services they provide.

The Senate pages, as usual—the Democratic pages, the Republican pages—represent a fine group of young Americans interested in the workings of their Government and seeing how it operates. They have done everything they could to assist the Members of this Chamber, and I want to personally extend my deepest thanks, my heartfelt thanks, to all these fine young people.

They are making a great contribution to the Senate and to its work and, therefore, the Nation.

I also thank my good friend, the Reverend Dr. Halverson for his spiritual guidance and human kindness. I have always found his opening prayers to be inspirational and thoughtful. While we generally are unable to perform the miracles for which the good reverend prays, I at least commend him for making the request.

May I thank him too always for his kindness to those of us who from time to time have loved ones in the hospital or for whom we have to conduct memorial services. He is always faithful in his attendance and so helpful in our hours of need.

The Secretary of the Senate, Walter (Joe) Stewart, is a long time friend and associate. I take this opportunity to thank him for returning to work in the U.S. Senate in his present position and for the valuable service he has performed over the past year.

Let me also express my deep appreciation to the Secretary for the Majority, Abby Saffold. Abby, along with her assistants Sue Spatz and Jerri Davis, faithfully perform their many duties with consummate ability and grace. Robert Bean, Assistant Secretary for the Majority, is an outstanding individual. Bob performs his duties with diligence, enthusiasm and professional competence.

I also want to express my appreciation to Howard O. Greene, Secretary for the Minority, and his assistant, John L. Doney, who perform valuable services for Republican Senators and for Democratic Senators.

I am sure that all of my Democratic colleagues join with me in appreciation of the Democratic floor staff, Charles Kinney, Marty Paone, and Bill Norton. They are well known to every Member of this body and have

developed a reputation for fulfilling their difficult and demanding job with competence, courtesy, and good humor. Working with their equally dedicated and professional Republican counterpart, Elizabeth Greene, they facilitate the important work of the Senate floor.

May I comment again on Elizabeth's fine disposition. She is always so very easy to work with, so cooperative, so courteous and so understanding, and my staff people on this side are just so proud of the friendship that exists between these two fine staffs on the floor.

The staff of the Democratic cloakroom—Joe Hart, Bailey Izard—by the way, Bailey Izard's distant relative, a great, great grandfather was a U.S. Senator in the First Congress; I am not sure my memory serves me correctly on that; but, in any event, he was a U.S. Senator and I have spoken of him in my speeches on the history of the Senate—who knows, Bailey may be a Senator also one day—Gary Heimberg, Lenny Oursler, and Patrick Hynes—are diligent in the performance of their duties and are responsive to numerous requests for assistance from Democratic Senators throughout the long hours of Senate sessions.

The Republican Cloakroom also has a fine staff consisting of George Cartagena, Mary Arnold, Dave Schiappa, Brad Holsclaw and Laura Dove.

I reserve a special word of commendation and appreciation for the excellent work of my chief of staff in the majority leader's office, Mrs. Barbara Videnieks. She handles a broad range of responsibilities with professional skill, grace, equanimity, and patience, is always very understanding, extremely capable, bright and able. She works closely with me, with the policy staff and with my State office staff every day. With outstanding ability and dedication, she makes an important contribution to the daily work of the Senate. She is ably assisted by Patty Kirschner, Gigi Naar, and Becki Roberts. Becki, by the way, is attending law school at night like I used to do.

I express my appreciation for the very fine work of Dick D'Amato, the staff director of the Policy Committee for Defense and Foreign Policy, and Tom Sliter, the staff director of the Policy Committee for Domestic Policy. They both bring to their responsibilities sharp minds and years of legislative experience. I thank also their capable assistants Alice Aughtry and Lula Davis. Through their competence and dedication, they make a major contribution to the smooth running of the Democratic Policy Committee.

I extend a special thanks to an outstanding issues staff on the Policy Committee. They are among the finest in their respective fields and have given unstintingly of themselves to the work of this body. I include here Sally Mernissi, Dave Corbin, Rusty Mathews, Jon Wood, Kent Hughes, Scott Harris, Janet Heininger, and Ed King along with our congressional fellow, Judi Greenwald. This staff is ably assisted in its work by Wendy Deker, Duvoria Ford, Paul Jentel, Nancy Scribner, Susan Sherk and Julia Thomas.

Linda Peek is also deserving of special praise. She is the extremely capable director of communications on the Democratic policy staff. Linda's daily assistance to me and other Democratic Senators in conducting our relations with the fourth estate are deeply appreciated, as are the efforts of her fine staff—Robert Barnes, Marsha Berry, Kim Camp, Mary Helen Fuller, Kevin Sullivan, and Kevin McManus.

One of the most important tasks of the policy committee is to keep the Members on our side of the aisle supplied with information on the Senate's work through our legislative bulletins, special reports, vote compilations and other committee publications. The staff members who perform this vital and demanding task are ably led by the committee's chief clerk, Elizabeth Shotwell, whose excellent and diligent service in providing timely information to Democratic Members is widely known and greatly appreciated. I also commend the work of her assistants—Claire Amoruso, Marian Bertram, Doug Connolly, Brenda Corbin, Mike Alion, Patti Schmid, and Lynn Terpstra.

My very able representative on the Judiciary Committee staff, George Carenbauer, works closely with me and with the policy committee staff. I deeply value his wise and able counsel.

I also commend the faithful and diligent efforts of my West Virginia office staff, led by Joan Drummond. They endeavor to provide my constituents with first rate services throughout the year and I am in their debt.

And I include with them those fine members who helped me on appropriations, Terry Sauvain, Charley Estes, Don Knowles, Carol Mitchell, and Melissa Wolford.

With great pleasure I call attention to the work of the Senate Parliamentarian Alan Frumin and his very able assistants, Gail Cowper and Kevin Kayes. Sally Goffinet in the Parliamentarian's office is always cheerful and helpful to all.

Their knowledge of the Senate's complex rules and precedents is essential to the effective working of this institution. They have my deepest appreciation.

They are most, most able, and I want to compliment them very highly.

With great pleasure I call the attention of the Members of this Chamber to the highly specialized work of the Official Reporters of Debates. It would be difficult to survive without editor-in-chief Russell Walker, assistant editor Scott Sanborn, and their staffs, as well as morning business editor Mark Lacovara.

William Farmer and Scott Bates somehow manage to find the time to accomplish the many and various tasks associated with the position of legislative clerk. They not only find the time, they perform these chores efficiently and successfully.

Bill clerk Vincent Del Balzo and his assistants Kathie Alvarez and Elizabeth Meyer, and journal clerks William Lackey, Dave Tinsley and Jim Thorndike, if seldom seen, are always appreciated.

Enrolling clerk Brian Hallen and his assistant, Maxine Snowden, are no strangers to long, hard hours and loads of paper work. I compliment them and thank them for their work.

Barry Wolk and his printing services staff constantly work under the burden of time meeting the printing needs of this institution. They accomplish their assignments not only successfully but pleasantly.

The superintendent of the document room, Jeanie Bowles, and her staff perform admirably in making sure that legislative documents and publications are distributed to the Senate chamber and Senate offices and available to the general public.

From the executive clerk, Gerry Hackett, to the daily digest editor, Jim Timberlake, to Director of the Office of Senate Security, Michael Disilvestro, we constantly receive the best of service.

I commend Abraham McPhail and his able clerks and special assistants in office services for effectively meeting the rigorous demands of that office.

The Sergeant at Arms Henry Giugni, his deputies, Jeanine Drysdale Lowe and Brian Nakamura, and minority representative Loretta Fuller do an outstanding job. Among the many important duties this office performs, the Sergeant of Arms provides for the security that is, regrettably, an even greater necessity in this dangerous world.

Chief Kerrigan and the U.S. Capitol Police get a special word of thanks for protecting this historic building—this important symbol of democratic government—and the Members of the Senate. They must provide this protection while at the same time ensuring the right of the people to observe their Government in action and to petition it. Theirs is a most difficult task; they perform it in a most professional way.

Postmaster Jay Woodall and his staff, and the Director of Telecommunications, Robert McCormick, and his deputy, Joan Ansheles, do an outstanding job in providing their valuable services. The service department, headed by Russell Jackson and Ron Ledlow, likewise, do outstanding work.

The hard working staff of the Senate computer center labor mightily to bring this body improved technological assistance.

Lyndon Johnson was fond of saying that "information is power." The former majority leader was a wise man—that is how he got to be majority leader as well as President. The Congressional Research Service and the Senate library are among the important support offices that ensure the Members of this Chamber and their staffs are appropriately and fully informed on any issues or topic. I give a special thanks to Senate Historian Dr. Richard Baker and his fine staff. Dr. Baker is a gentleman and a scholar in the truest meaning of the phrase; I value the personal as well as professional relationship we have established over the past several years.

Vitae Bergman, Vividell Holmes, Shirley Felix, and others in the Senate restaurant provide high quality service and high quality meals. There is no way to thank them enough.

I also thank the Capitol physician, Dr. William Narva and his staff, and Alan Porter of the Photographic Studio and his staff.

Mr. "Tinker" St. Clair from way, way down in McDowell County, southern West Virginia, and all the doorkeepers, and Arthur Curran, their supervisor, are with us each hour we are in session. Their dedication to their work is well known and highly regarded.

I thank those in the Senate press galleries who follow our efforts and help to keep us accountable to our constituents.

Among the people who are always here as long as the Senate is in session are the dedicated staff of T.V. control offices. Through their efforts the citizens of our Nation are able to follow the deliberations of the Senate.

And then there are those in the Reception Room—"Irish" McLain, Christine Catucci, and Ruby Paone, and all the doorkeepers who work so hard for the Senate and for all of us.

Dozens of other people contribute to the workings of the Senate. While time and energy does not permit me to thank everyone by name, each has my most profound and sincere appreciation.

Last, but by no means least, I must express my deepest gratitude and thanks to my good friend and colleague, the able and talented Republican leader. The senior Senator from Kansas, Mr. DOLE, previously held the position of majority leader. I am certainly well aware of the difficulties and problems of moving from the position of majority to minority leader. I must say that Senator DOLE has made the transition remarkably well. He has done it so well that I hope we can keep him in this position, not only for the remainder of the 100th Congress, but for many years to come. As minority leader, a Senator must possess the ability to cooperate while at the same time representing the loyal opposition. This he has done. At times he is so effective in his loyal opposition that I wish he would place more emphasis on cooperation.

But I have to say, for the most part, I have enjoyed the cooperation of ROBERT DOLE and ALAN SIMPSON and others in the leadership of the Republican side of the aisle. I think we can see the evidence of that cooperation as we have watched in these last several weeks. We passed 10 out of the 13 appropriations bills. We passed the Department of Defense authorization bill; a very complicated bill.

We passed the reconciliation bill, which included the joint leadership package. We did it on a voice vote and then passed the bill on a voice vote. We passed the continuing resolution and we acted on circa 70 amendments. Yet we had only six rollcall votes on all those amendments and then one rollcall vote on passage. No, six in total. We had only five rollcall votes on 70 amendments. That was the kind of cooperation that was demonstrated here by the Republicans and Democrats. It is a marvelous, marvelous thing to watch how this Senate can operate when the leadership on the Republican side joins with the leadership on the Democratic side and we work together.

The people of the great State of Kansas are well served by this distinguished and capable Senator as are the Senate, the Republican party, and the people of the United States. I cherish his friendship as well as the valuable assistance he provides me in his role as minority leader.

Mr. President, there are other Senators to whom I owe a great debt of gratitude for their understanding and cooperation, their courtesies extended to me during this first session of the 100th Congress. I am grateful for all the help that I have been given by all Senators on both sides. This is an extremely difficult job, it is a very frustrating job; in many ways more difficult than the job of the President of the United States, I am sure. But, in many ways, it is rewarding.

And on the floor at this time I have one of the best friends I have ever had in the world seated right across the aisle from me, Senator TED STEVENS of Alaska. For many years, we worked together on the Appropriations Committee. He and I have worked as the chairman and ranking member on the subcommittee on Interior and related agencies. He helps me to fight many of the battles that I win in the Appropriations Committee.

He is an extremely knowledgeable, talented, capable, and courageous Senator. He has got a spark of fire in him. But what man is worth a shilling if he does not have some fire in him? This man STEVENS has it.

He has courage. He is bright. He is fair. He is courteous. He is reasonable. I will always cherish my friendship with him.

Mr. President, I have taken the time of the Senate, but I thought this was a good moment when the Senate was not doing other business and when we did not have anything ready from the other body for me to express these feeble words of thanks to all of these wonderful people whose help is so valuable. We do not thank them enough.

Mr. STEVENS. Will the Senator yield?

Mr. BYRD. Yes, I am happy to yield.

Mr. STEVENS. Mr. President, with the exception of the gracious remarks my good friend has made concerning our friendship, I know that he speaks well of the Senate when he commends those who work so hard for the Senate and I thank him for all Senators for extending this gratitude to the individuals and for naming them and letting them know how much we appreciate their service to the Senate. I am particularly grateful to the Senator for his kind words and his continued friendship. That is all I can say about that.

Mr. BYRD. I thank the distinguished Senator.

END OF SESSION WRAP-UP

Mr. DOLE. Mr. President, it may have seemed like a long time coming, but we're finally here at the end of the first session.

Before addressing the issues, I'd like to offer my thanks to some of the many, many people who help lighten the workload, and make my job a lot easier.

First, let me offer my sincere thanks to the distinguished majority leader, Senator BYRD. Having been there, I know how difficult, and sometimes frustrating it is to keep the Senate going. But Senator BYRD has not only managed to make the Senate work, but does so in a way that was sensitive to the needs of all Senators—Republican and Democrat alike.

ALAN SIMPSON, the assistant Republican leader, whose ready sense of humor and canny insights bring a special wisdom and candor to the Senate; and whose willingness to step in for me, when necessary, has been of enormous help.

All of the Republican leadership: JOHN CHAFEE, the chairman of the Republican conference; BILL ARMSTRONG, the chairman of the Republican policy committee; and RUDY BOSCHWITZ, the chairman of the senatorial committee, have provided valued advice and assistance throughout the session.

Thanks also to the Secretary of the Senate and Sergeant at Arms offices;

to Howard O. Greene, the secretary to the minority and Abby Saffold, the secretary to the majority; to the floor staff, Elizabeth Greene; and to both the Cloakroom staffs, as well as the pages, Parliamentarians, police, doorkeepers and restaurant staff. And a special thanks to Dick Baker in the historian's office who has provided me with the "Bicentennial Minute" series.

Rev. Richard Halverson, the Senate Chaplain, provides solace and inspiration to us day after day, and for this I offer my sincere appreciation.

THE 100TH CONGRESS

This 100th Congress began with a great deal of promise. And in many ways, we've kept those promises—or at least tried to keep them. There is still much work yet to be done in areas like the deficit. And we have yet to complete action on some of the more important pieces of legislation passed by one or both Houses—trade, catastrophic health insurance, welfare reform, to name a few. But hopefully, by the end of the 2d session of the 100th Congress these initiatives will come to fruition.

I will not present an exhaustive list of what I consider this session's accomplishments. But I do want to touch on a few of, what I consider, the highlights of this last year.

ECONOMIC ISSUES

Clearly, the budget reconciliation agreement we finally voted on leaves a great deal to be desired. As I've said on many occasions, we had a golden opportunity in mid-October to come up with a budget plan that would have called for the kind of long-term savings that put the deficit of a steep downward trend and eventually in balance. But we didn't.

But we didn't walk away from the problem either. The tax and spending cut package will reduce the deficit by $33.3 billion next year. And there are some, though far from enough, programmatic changes that will continue to yield savings in the future. On the tax side, we lived up to our commitment to hold the line, not to raise tax rates.

Before leaving the budget, I want to express my real displeasure with the rut we have fallen into—a rut that gets deeper and deeper every year. Passing one appropriations bill, that contains more than $600 billion, all sorts of authorization language, and literally, Heaven knows what else, hours before adjournment for Christmas is a disastrous, reckless fiscal policy.

Everybody, except for those lucky enough to sneak a few goodies in the pot, everybody loses in this process. The Senators and Congressmen and women who are not members of the appropriations conference, and therefore have little or no say in the final product; the President, who is faced with a Hobson's choice of shutting down the Government or accepting a monster spending bill; and the American people, who are denied the kind of thoughtful, discriminating, decisions they deserve.

There has to be a way out of this mess. Certainly, giving the President line-item veto authority would be a big step in the right direction. But we have to attack the problem from the congressional end as well. Budget process reform is long overdue, and I hope it will be a priority next session.

TRADE

Trade is another complex issue that we began to address this session. The conference on the two versions of the bill was never really able to get off the ground. But with trade deficit figures remaining very high, there's little question that there will be a great deal of interest in working out a compromise between the House and Senate versions. And I sincerely hope that we will be able to come up with a final agreement that expands our trade horizons without erecting barriers here at home.

FOREIGN POLICY

In foreign policy, the two preeminent issues were aid to the Nicaraguan Contras, and our Persian Gulf policy, manifested in the war powers debate. In both instances, I'm proud to say, the Republicans can take credit for preventing what I consider would have been disastrous changes in policy.

We all hope that the Central American peace plan, the so-called Guatamela plan will work. But until we are convinced that it is working, we must continue to provide humanitarian aid to the Contras. I, for one, do not believe that we have done nearly enough. But, at the very least, we have kept the pipeline open.

Repeated attempts to invoke the War Powers Act in connection with the U.S. reflagging operation failed. It became clear, while there may have been some questions about the policy, once the commitment was made to take part in ensuring the safety of the Persian Gulf, the majority of Senators were unwilling to back away from that commitment. We will, however, have the opportunity to revisit the issue early in 1988.

ARMS CONTROL NATIONAL SECURITY

Republicans were able to hold back attempts to tie the administration's hands on arms control policy. And as one result, believe, the administration was able to successfully negotiate an INF agreement.

We thwarted efforts to have the Senate ratify the TTBT Treaty, the provisions of which could not be verified. We ultimately defeated attempts to force a narrow interpretation of the ABM Treaty, thus allowing President Reagan to restructure his SDI Program in fiscal 1989. We beat back a move to impose sublimits on the unratified SALT II Treaty and finally refused to agree to a moratorium on nuclear testing.

AGRICULTURE

The Farm Credit restructuring legislation approved just this week, will place the Federal Farm Credit System on sound financial footing. It also helps prop up many of the small banks that are so important to the rural economy. So it provides a much-needed confidence booster for rural America.

Farmers who need to restructure their distressed loans are provided help. And for the first time, all commercial lenders will benefit from a new source of credit through a secondary market.

HEALTH, EDUCATION AND WELFARE

After years of discussion and debate, both Houses have approved catastrophic health insurance plans. Hopefully, the legislation, expanding Medicare to cover unlimited hospital stays, will be finalized in the second session. Welfare reform is also working its way through the process. Both Houses have approved a major education authorization bill, which should be resolved early next year.

TENDERING THE THANKS OF THE SENATE TO THE VICE PRESIDENT

Mr. STEVENS. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 349) tendering the thanks of the Senate to the Vice President for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. Mr. President, I am happy to present this in behalf of the Senate and I thank, again, my good friend for permitting me to do this and extending our appreciation to the Vice President for his attention to the Senate. He has been present quite often and has conducted himself as a Member of the Senate in accordance with the traditions and sense of our body.

I am pleased to sponsor this resolution.

Mr. BYRD. Mr. President, I share the sentiments that have been expressed by our friend and I join in support of the resolution.

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

The resolution (S. Res. 349) was agreed to as follows:

S. RES. 349

Tendering the thanks of the Senate to the Vice President for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate.

Resolved, That the thanks of the Senate are hereby tendered to the Honorable George H. W. Bush, Vice President of the United States and President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the One Hundredth Congress.

AUSTRALIAN SENATE HONORS AMERICAN CONSTITUTION

Mr. BYRD. Mr. President, the Ambassador of Australia to the United States, the Honorable F. Rawdon Dalrymple, has brought to my attention an action by the Australian Senate honoring the United States Constitution. The Australian Senate passed a resolution on October 7, 1987, the text of which is as follows:

"That the Senate

(A) Notes the 200th Anniversary of the United States Constitution and conveys its congratulations to the people of the United States on the 200 year existence of this dynamic document which has been the foundation of efforts to protect and maintain some of the most important fundamental rights in a democratic country: and

(B) Applauds the United States Constitution as a splendid example of commitment to liberty and wishes the people of the United States well for their celebrations and the continuing vitality of their Constitution."

Mr. President, as we complete our work in this first session of the 100th Congress—the legislature which was created 200 years ago by the document the anniversary of which we have celebrated this year—it is valuable to pause and reflect on the wisdom and foresight of those who wrote the great document, and on its continued relevance and power in the world today. The Australian Senate's action draws our attention to these issues, and I am pleased to share it with my colleagues by publishing the text in the RECORD.

A RESOLUTION TENDERING THE THANKS OF THE SENATE TO THE DEPUTY PRESIDENT PRO TEMPORE

Mr. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 350) tendering the thanks of the Senate to the Deputy President Pro Tempore for the courteous, dignified and impartial manner in which he has presided over the deliberations of the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senated proceeded to consider the resolution.

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

The resolution (S. Res. 350) was agreed to as follows:

S. RES. 350

Tendering the thanks of the Senate to the Deputy President pro tempore for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate.

Resolved, That the thanks of the Senate are hereby tendered to the Honorable George J. Mitchell, Deputy President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the One Hundredth Congress.

RECESS UNTIL 2:28 A.M.

Mr. BYRD. Mr. President, it is estimated that the Senate will receive the continuing resolution conference report at around 2:25, 2:30 a.m.

Does the distinguished Senator from Alaska have anything further at this moment?

Mr. STEVENS. No, I do not, Mr. President. I thank the distinguished leader.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 1:58 a.m., recessed until 2:28 a.m., when called to order by the Presiding Officer [Ms. MIKULSKI].

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

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

THE CONTINUING RESOLUTION

Mr. ARMSTRONG. Madam President, it is my understanding that the conference report on the continuing resolution will soon be here. In the interest of time I thought I would just share a thought or two about it with my colleagues and put a couple of matters in the RECORD so as to save time when the bill actually arrives.

I do not know how many saw it but the Washington Times of last Friday contained a very perceptive article which summed up, I think, a point that Senators would well reflect on, not only in the middle of the night as we prepare to adopt or at least to act upon the continuing resolution but for a long time to come. The article begins with these words:

The shadow of Italian dictator Benito Mussolini darkened the floor of the U.S. Senate in the early hours of Dec. 12, 1987.

The article, the perceptive piece by Bruce Fein, goes on to relate something which I never knew. It is that Mussolini's favorite tactic was to bundle together thousands of laws which he then forced the Italian parliament to vote on en bloc, exactly the tactic which is becoming increasingly prevalent in this Chamber. In a few minutes we are going to be asked to vote on a bill which I guess is 2,000 pages more or less, which contains hundreds of billions of dollars in appropriations, and which in fact is a matter of only the most general knowledge by any person on Earth so far as I am aware. There may be somebody who could come before us and say I understand in detail what is in this bill. Certainly there will be a handful of Senators who will manage the legislation who will have a good general outline of it, but I cannot imagine that any Senator or any staffer really knows in detail what is in it.

I am advised that the administration will be unable to send us a definitive signal as to whether they intend to sign or veto this legislation for the simple reason they have not had it long enough to be able to read it and even know what is in there. But the suspicion, indeed the conviction which many of us have, is that it is per se bad business for us to be legislating in this way. Nor is this an inevitable consequence. We did not have to get ourselves into this fix and for that matter we do not have to get ourselves into this fix even now. We could adopt the suggestion of our friend from Washington, Senator EVANS, who said that even if we have to end up a session with a continuing resolution, itself a confession we do not know how to manage our business, at least we could submit by concurrent resolution these titles individually to the President so that they would be subject not to an item veto, but to be considered as individual pieces of legislation, at least 13 separate bills. But instead of that, we roll everything into one piece of legislation, and it is a very, very bad practice.

The point which Mr. Fein makes so well is that by forcing ourselves and permitting ourselves to vote on everything en bloc, we diffuse the responsibility. We can go home and say to our constituents, well, we voted for this because it had such-and-such provision in it that we thought was good, even though it had other things we thought were bad, or we can easily justify a vote against such a piece of legislation on the same kind of grounds in the reverse. What it really does is removes

one of the last, not the last, but one of the last important aspects of accountability in a representative system of Government.

Madam President, I ask unanimous consent that this article by Mr. Fein be reproduced in the RECORD at this point.

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

THE CONTINUING RESOLUTION

The shadow of Italian dictator Benito Mussolini darkened the floor of the U.S. Senate in the early hours of Dec. 12, 1987.

Mussolini initiated the practice of presenting Parliament thousands of laws to be approved or disapproved en bloc. Emulating that aggrandizing legislative tactic, the Senate, on Dec. 12, passed a bloated $606 billion omnibus appropriations bill, amalgamating 13 separate appropriations bills for various unrelated agencies and programs, in addition to extraneous special interest laws.

The House of Representatives passed a less corpulent spending bill on Dec. 4, appropriating $576 billion. That bill was also married to a phalanx of unrelated laws, including a "fairness doctrine" for broadcasters and deferring the Clean Air Act deadline, both incorporating distinct policies of no concern to appropriations authority.

Congress labels such legislative monstrosities with the anodyne term "Continuing Resolution." But that term wrongly suggests a legislative and community consensus to maintain the status quo. A CR wraps together countless distinct policies, each with only minority support but which when aggregated amount to a legislative majority. Thus, multi-billion-dollar CRs foster the enactment of laws that could not elicit majority consent if they received separate votes.

But if, as President Thomas Jefferson admonished, "[g]reat innovations should not be forced on slender majorities," much less should they be forced on slender minorities. CRs, however, invite the enactment of a farrago of narrow-interest legislation applauded by discrete handfuls of legislators anxious to serve their parochial constituencies.

The broad national interest becomes lost in the legislative equation. Too many laws, unwise laws and laws unwanted by a majority of Americans are the consequences.

CRs violate the spirit of the Constitution and its prescriptions for legislation. The Founding Fathers acutely apprehended an excess of lawmaking and mutability of statutes. James Madison, in The Federalist Papers, defended a bicameral legislature representing varied constituencies for varied terms of office as a safeguard against governmental propensity for lawmaking. And Alexander Hamilton extolled the president's veto power as a salutary check against bad laws and "the mischiefs of that inconstancy and mutability . . . which forms the greatest blemish in the character and genius of our governments."

The pending CR in Congress seeks subversion of the president's veto power. It presents him the daunting choice of vetoing many praiseworthy bills to prevent enactment of a few ill-conceived ones. A veto further may halt government operations, to the dismay of citizens inclined to look to the president for responsibility.

Congressman hide from any adversity caused constituents by legislation through collective anonymity and pointing the finger of blame at others.

The House version attempts an undisguised end run around the veto by inclusion of a provision requiring broadcasters to ventilate conflicting viewpoints when addressing controversial public issues. Congress was unable to override a veto of the identical provision when it was presented to the president as a single bill.

Several state constitutions tacitly acknowledge the infirmities of multipurposes laws that are smuggled through the lawmaking process through a collection of minority coalitions. Thus, the Florida constitution requires that initiatives proposing constitutional amendments address only a single subject.

Historically, Congress has generally declined Mussolini-style tactics of requiring the president to veto or approve *en bloc* a long train of bills collected under a single legislative umbrella. Presidents Rutherford B. Hays, William H. Taft and Woodrow Wilson inveighed against the employment of the congressional appropriations power to achieve unrelated policy goals, such as exempting farmers or labor unions from antitrust laws. But these complaints were the exception, whereas today congressional irresponsibility is the norm.

The reason is the dominance of congressmen who view their perpetuation in office as the *summum bonum*.

They believe avoiding responsibility for anything secures incumbancy, and CRs are ideally suited by their length, incomprehensability and relative inaccessibility to this purpose. CRs provide individual members of Congress a host of targets to blame for provisions that may disturb any of their constituents.

A starting point for reform is the single-subject rule, as obtains in the Florida constitution, for any bill enacted by Congress for presentation to the president.

Mr. ARMSTRONG. Madam President, It is not very often I think that the Washington Times and the New York Times agree on such a matter. But it is interesting that a few days later the New York Times on the 19th of December wrote an editorial entitled "A Crazy Way to Govern America."

The Times said:

Congress is about to send the President one gigantic, take-it-or-leave-it appropriations bill for fiscal 1988. It's bad enough that the bill isn't even arriving until the fiscal year is almost three months gone. Worse, it's loaded with trivia, fakery and irrelevant controversy, and forces on President Reagan a $600 billion choice: He must accept every detail of this bill, or, if he wants to block a single one, must veto the whole thing.

This editorial goes on to refer in complimentary terms to the suggestion that Senator EVANS made that these be split into separate pieces so the President could at least veto the defense portion of the bill or the interior portion of the bill or the legislative branch appropriation or something.

I must say that the editorial is not entirely complimentary to either party. It levels some criticism at both. I think that is fair. But the final conclusion which the Times reaches in my opinion is absolutely correct. This is a crazy way to govern America.

I ask unanimous consent that this editorial also appear in the RECORD at this point.

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

A CRAZY WAY TO GOVERN AMERICA

Congress is about to send the President one gigantic, take-it-or-leave-it appropriations bill for fiscal 1988. It's bad enough that the bill isn't even arriving until the fiscal year is almost three months gone. Worse, it's loaded with trivia, fakery and irrelevant controversy, and forces on President Reagan a $600 billion choice: He must accept every detail of this bill, or, if he wants to block a single one, must veto the whole thing.

It's a crazy way to govern the country.

Normally there are 13 different annual appropriations bills, approved separately, which the President can pass on one by one before the fiscal year starts each October 1. Because Congress has developed bad habits, this omnibus measure lumps them all together.

The trouble began with the "continuing resolution," invented some years ago as a convenient device to allow more time to work on one or two unfinished bills beyond the fiscal new year deadline. As years passed, more bills got stalled, and the omnibus bill was born. An all-or-nothing package became a device to insulate programs that would surely be vetoed if they stood alone.

Last year, all 13 bills were welded together for the first time. This year, Congress has compounded its recklessness by rushing two omnibus money bills to completion at the last minute. In addition to the $600 billion appropriations monster, it is offering a companion "reconciliation" bill that covers Federal revenues and programs that don't get annual appropriations, like Medicare. As soon as they dump both measures on Mr. Reagan's desk, all 535 lawmakers will hurry home for Christmas. If a veto shortens their holiday, they asked for it. The President could well reject the whole bill because of one extraneous amendment, like one to incorporate the broadcast "fairness doctrine" into statute, an idea he has already vetoed once.

Congress is not entirely to blame. Year after year, the President has sent up confrontational budgets and then refused to compromise. Not until last month was there even a rough outline of mutually acceptable spending cuts and revenue increases for fiscal 1988.

Republicans have done the most obstructing in Congress this year, but a Republican Senator, DAN EVANS of Washington, deserves credit for trying to save the Senate from itself. He proposed that the omnibus bill be divided into its 13 component parts by the conference committee. He lost, 51 to 44, but it's mildly encouraging that so many senators voted for sensible reform.

In the end, no procedure can make the members of Congress behave responsibly. They have shown that they can outmaneuver any rules they write to keep themselves honest. Nor is there any salvation in giving the President authority to veto items line by line. That would only increase his already formidable power to twist arms.

As long as the White House and Congress are controlled by different parties, there may be no remedy. Neither party will cede power over the purse to the other. But if there's any doubt that an answer is needed,

just listen for the thump! when this year's omnibus bill hits the President's desk.

Mr. ARMSTRONG. Madam President, I have said my piece. I am going to vote against it because I think it is bad government, I think it is bad procedure because I think the bill itself is extravagant and because, were my point of view to prevail in this Chamber, I think we would be better off even though it would be a great inconvenience. I think we would be better off to split this bill into its component parts and have 13 bills, not one, and if that meant we have to come back in tomorrow, stay a day or two, or even come back after Christmas, I think that would be a small price to pay. I do not realistically entertain the hope that is going to happen although I note with approval that the bill passed in the House by a very, very narrow margin. In fact, someone could correct me, but I understand it passed by a margin of only 209 to 208 or some such.

So if lightning should strike, and if a majority of Senators should decide to turn this bill down, it would not be the end of the world. In fact, it would be a good precedent and the start of a reform movement which is long overdue.

Madam President, unless someone else is seeking recognition, I suggest the absence of a quorum.

I withhold that, Madam President.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington State.

Mr. EVANS. Madam President, I commend my colleague from Colorado on his remarks, and I associate myself with them in every respect including the Fein editorial and article which appeared in papers just recently.

Madam President, I too will vote against this continuing resolution as I voted against the reconciliation bill. We are going to be asked very shortly to vote on what I understand is a 2,000 or 2,300 page bill, but where is it?

What do we have on our desks? What even remotely small summary of this bill do we have? The best I see on my desk right now is a 2- or 3-page summary, which is certainly better than nothing. It comes from the Republican Policy Committee, but it is a scam suggestion, a whisper, of what is in this massive continuing resolution.

Madam President, this is more than just a bad way to govern; it is an absurdity. We simply are not doing the job we were all elected to come and do, when we are willing to sit still and vote for abomination like this.

Not that the bill does not contain some good ideas; not that it does not contain some things which are good for my own State of Washington as well as each of the other States of the Union; but because we simply will have no opportunity to examine it in any detail at all. We will have no opportunity to deal with it in its individual pieces. The President, most of all, will have no opportunity to exercise his constitutional right of veto.

Oh, yes, he could if he wished to simply stop the Government. But that is no way to govern. It is no way to follow the traditional constitutional balance between the President and the Congress.

Madam President, I hope that at least we will start the new year with a resolve that we will not allow this to occur in October, November, or December of 1988. But rather we will in fact bring forth these appropriation bills early. We will deal with them separately and we will send them to the President separately, and I certainly intend, as far as this Senator is concerned, to bring back the proposal that we do this by law and hope that the Senate and the Congress will adopt such a proposal.

Now, Madam President, I see that the continuing resolution, I suspect, has arrived and since it has arrived, I think that I should sit down. But before I do, I shall just note that I am not sure how many pages there are, but the continuing resolution is in a box approximately 1 foot by 1 foot by 1 foot, so we have 1 cubic foot of appropriations. I do not know how many dollars per cubic inch that represents, but it certainly makes the point that we are going to buy off on 1 cubic foot of appropriation without having the foggiest notion of the details which lie within that large cardboard box.

Mr. BYRD. Madam President, I ask unanimous consent that there be not to exceed 30 minutes to be equally divided in accordance with the usual form on the conference report on House Joint Resolution 395.

The PRESIDING OFFICER. Without objection it is so ordered.

The Senate will receive a message from the House of Representatives.

At 2:43 a.m. (December 22, 1987), a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 395) making further continuing appropriations for fiscal year 1988, and for other purposes.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1988—CONFERENCE REPORT

Mr. PROXMIRE. Madam President, I submit a report of the committee of conference on House Joint Resolution 395 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill joint resolution (H.J. Res. 395) making further continuing appropriations for fiscal year 1988, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 21, 1987.)

The PRESIDING OFFICER. The time for debate is limited to 30 minutes equally divided.

Mr. PROXMIRE. Madam President, I yield myself such time as I may require. I will be very brief.

Madam President, I am happy to be here this evening to present before the Senate the conference agreement on the continuing resolution for fiscal year 1988, House Joint Resolution 395. This resolution was initially passed by the House on Thursday, December 3, and was passed by the Senate on Saturday, December 11, 1987.

The conference committee was convened on Monday, December 14 and concluded its work earlier this evening, after six full sessions.

Madam President, the conference agreement provides the levels of funding for the 13 appropriation bills totaling $603.8 billion in budget authority and $593.9 billion in outlays

Ten of the thirteen appropriation bills in this resolution have been acted on and passed this body overwhelmingly. We have debated them, discussed them, and acted on them favorably. The other three bills, including the defense appropriation bill, were approved by subcommittees in the House and Senate and were approved in the Senate and the House conference with virtually no dissent.

There are two highly controversial provisions in this CR. One was the provision for Contra aid that was discussed, debated, and compromised, and in subconferences which lasted many hours, including strong advocates for those who opposed Contra aid and those who favored Contra aid.

The leadership, Democratic and Republican, and the White House greatly assisted the conferees in coming to a compromise that no one supports all the way but is undoubtedly the best or very close to the best we can do without a certain veto.

Everyone gives up and gives up substantially. No one wins. We simply cannot realistically expect to do better.

The second controversial issue was the decision to drop the codification of the fairness doctrine. Here the conferees in the Senate very narrowly approved dropping the fairness codification. The House conferees at first narrowly disapproved dropping the fairness codification. It became clear, however, to the conferees and the Senate and House leadership that if the House prevailed, if the Congress insisted on codifying the fairness doctrine, the President would definitely veto the bill. In the final meeting of the conference a few hours ago tonight, the House receded to the Senate on the fairness doctrine.

So we have a continuing resolution that, according to the CBO and the OMB, complies fully with the reconciliation bill that we enacted a few hours ago.

This continuing resolution obviously has its serious weaknesses, but on balance it does represent a reasonable compromise. It is undoubtedly the best we can do.

I reserve the remainder of my time.

Mr. STEVENS. Madam President, I yield myself such time as I may use if my good friend from Wisconsin has completed.

Mr. PROXMIRE. Yes.

Mr. STEVENS. Madam President, I want to state my complete concurrence with the statement of the Senator from Wisconsin, who is acting on behalf of our distinguished chairman, Senator STENNIS, from Mississippi, as I am acting for the ranking member, Senator HATFIELD.

The resolution is in full compliance with the budget summit agreement. It meets all targets for defense, international affairs, nondefense domestic spending, as specified in the summit agreement reported to us reached by the leaders and the President on November 20.

This is the second part of that request that the President made to the summit, that the agreement be embodied in two bills, a continuing resolution and the reconciliation bill.

I might state this continuing resolution represents significant cuts in all areas of discretionary outlays. Defense spending is $5 billion below the baseline of the budget and more than $13 billion below the President's request which at that time was a modest 3-percent real growth. This defense level represents a 6-percent real cut, the largest reduction in defense levels in the last 7 years.

The domestic bills are reduced by more than $4.6 billion below the Senate-passed levels. The bills that the Senator from Wisconsin mentioned that had been passed have been cut now $4.6 billion below the levels they passed the Senate. Incidentally, Congress has also taken its share of its cut because we reduced the legislative branch operations by more than $58 million. This will meet the targets in the CR and will avert the sequester ordered in our opinion.

I might state to my good friend from Washington that every page—there are more than 2,300 pages here—every page of this has been checked by at least one majority member and one minority member and competent staff working with each one of us. Subcommittee chairmen and the ranking member of each subcommittee have vouched to the Senate for the accuracy of these bills.

So this is not something that has not been read. It is not something that has not been gone over with a fine-tooth comb during the last week and a half as we debated and looked at the continuing resolution. I, without hesitancy, recommend that the Senate approve this conference report.

I am prepared to yield time if anyone seeks the time.

Mr. PROXMIRE. Madam President, I understand a Senator is very anxious to speak on this.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. PROXMIRE. Madam President, I yield whatever time the chairman of the committee would request.

(Mr. LEAHY assumed the chair.)

Mr. STENNIS. Mr. President, I want to commend all the way up the line from the newest staff all the way through for the work that has been done this year by them. It has successfully passed muster before it got here to this Chamber and it passed by a token vote in the other Chamber.

Another thing I want to point out is the enormous amount of work involved in this bill for this year. That is indicated by the amount of money it carries, of course. But, the repetitious work, the monstrous amount that is involved at every turn.

If I am permitted to say—no one is to blame for this, particularly; I am not trying to assess blame—but, it just takes too much of a Senator's time to thoroughly master even the elemental facts in order to make a judgment, a worthy judgment.

I am serious and I am concerned about it. I am talking in a broad sense now, not in terms of an individual, not pointing out anyone that I think is responsible or any lack of application. In fact, there was tremendous application by a great number of talented Members of this body. But, like everything else, it is growing, and it strikes at the efficiency and the effectiveness of the Membership, considering the daily demands on every turn. This is not a complaint and they are not complaining. No one suggested I make these remarks.

I am in a position not to pass on it with any great intelligence, but when it comes to day-to-day work over a long period of time, I do have the facts before me, the things that I observed from day-to-day over a period of years. By way of comparison, it makes me know something about how serious is it.

Something more must be done to have a plan that is effective but, at the same time, does not require so much time. And I make that statement now in my responsibility. I would be glad to try to help out to a small degree in any way, in any kind of planning that could be done, because it will take not weeks but years to get back I think on the track that can be sounder and more effective than we have now where the Congress as a whole, especially the Senate, is called upon, having only 100 Members, is called upon to give their utmost, thorough, exhausted personal attention.

So I mention that not in criticism, I emphasize, of any individual, but it is a growing problem that we have and I am satisfied in my mind that something has got to be done about it.

Mr. President, I thank the Senator for yielding to me.

Mr. STEVENS. Mr. President, if I might just comment, the Senator from Mississippi has been with us—I myself have been down here, I think, before 8:30 every morning and have not left before midnight in the last 9 days—I think the Senator from Mississippi, despite the fact that I am pleased to have him call me "son," has been with us every hour that I can remember. So I congratulate him on his attention to this business. We should take heed of what he said.

I am prepared to lend some time so the distinguished Senator from Connecticut might speak.

Mr. PROXMIRE. Mr. President, how much time does the Senator from Connecticut require?

Mr. DODD. Mr. President, I would think I might not require any more than about 10 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin has 7 minutes and 41 seconds remaining.

Mr. PROXMIRE. I yield 7 minutes to the Senator from Connecticut and I understand the Senator from Alaska is yielding 3 minutes. So the Senator from Connecticut has 10 minutes.

Mr. DODD. I thank my colleague from Wisconsin.

Mr. President, I wonder if I might inquire of my good friend from Alaska several questions that I would like to have addressed, if I may.

I realize the hour is late, Mr. President, but this is the last opportunity we will have to address this particular question and there are a couple of concerns that I have and I think they are shared by other colleagues here.

First of all, let me inquire of my good friend and colleague from Alaska, the Senator will recall, during the debate almost a week ago on this amendment affecting the assistance to

the Contras, the issue was raised as to how much military lethal assistance was yet in the pipeline, yet to be delivered to the Contra forces. My good friend from Alaska, if I may quote from the page S17933, at that particular time in the midst of that debate, Mr. STEVENS says:

My understanding is about a million and a half dollars worth of lethal assistance has already been purchased and is already there out of over $100 million that still has to be delivered along with this humanitarian assistance or separately in a separate plan at considerable increased cost.

The notion being there was about a million and a half dollars left in the pipeline. Two reports this morning, both in the New York Times and the Washington Post, refer to a million and a half pounds of lethal equipment remaining in the pipeline.

The Senator from Connecticut would like to inquire which is the accurate figure. Are we talking dollars, a million and a half dollars, in the pipeline or a million and a half pounds of lethal equipment left in the pipeline? Which is the accurate description?

Mr. STEVENS. Mr. President, on the Senator's time, because we do not have much time left, the statement I made, and I still stand by, was we were told there was a million and a half dollars left to be obligated, of which $500,000 was the limit for lethal aid to be purchased. There is a stockpile of equipment and lethal aid that is blended that has yet to be delivered.

It is not in the level that the Senator mentioned, to my knowledge. Someone else might have that knowledge, but I never heard tonnage that high.

But the Senator is correct. I did make that statement and stand by it. There is still $500,000 to be expended for lethal aid. This amendment, which is a provision of my amendment that I offered last week, does not authorize any new lethal aid. No moneys can be spent in the new money for any lethal aid. It is only for humanitarian aid, plus the transportation of that, which has already been authorized.

Mr. DODD. In other words, if I may clarify further, the reference in both the Washington Post and New York Times this morning—and I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CONGRESS APPROVES 1-DAY FUNDING BILL: VOTE ON DEFICIT-CUTTING PACKAGE DUE TODAY

(By Tom Kenworthy and Anne Swardson)

Congress last night voted funds to keep the government operating today as negotiators put all but the finishing touches on two bills needed to implement a budget pact that calls for reducing the deficit this year by at least $30.2 billion.

The one-day emergency spending bill approved by Congress funds the government through midnight tonight, and should give lawmakers sufficient time today to enact the two measures that will complete the November 20 deficit-cutting accord with the Reagan administration.

The short-term bill was passed by the House 207 to 178, and a short time later by the Senate on a voice vote, during a rare Sunday session in both houses. President Reagan signed the legislation late last night.

Congressional and White House negotiators cleared the way for today's expected floor votes on the deficit-reduction package when they resolved a relatively minor dispute over an agreement to provide another $8.1 million in funds to the Nicaraguan contras through the end of February.

"We have an agreement, we shook hands on it," said House Majority Whip Tony Coelho (D-Calif.) of the contra aid pact that will permit deliveries of previously authorized military equipment but which is designed to pressure both the rebels and Nicaragua's Marxist Sandinista government to reach a cease-fire in mid-January.

However, substantial numbers of liberal Democrats oppose the contra aid arrangement, and House Democratic leaders estimate they will need as many as 80 Republican votes to overcome defections and pass the deficit-reduction package today.

"We took a pig and dressed it up in a tuxedo, but it's still a pig," said Rep. Robert J. Mrazek (D-N.Y.), reflecting the bitterness of liberal Democrats.

The first bill needed to implement the budget agreement is a $600 billion appropriations measure that funds most government operations through the end of the fiscal year and cuts the deficit by $7.6 billion through reductions in military and domestic spending. The second combines a $9 billion tax increase with additional cuts in permanent federal programs such as Medicare and farm subsidies to yield further cuts in the deficit of about $24 billion.

Congressional negotiators spent much of yesterday scurrying throughout the Capitol to attend a series of private meetings where the few outstanding disagreements in the two bills were being worked out. By nightfall, conferees had agreed on increases in Medicaid, which provides health care to lower-income Americans, and were close to final agreement on cuts in Medicare, the health insurance program for the elderly and disabled.

A dispute over reductions in the Postal Service budget was resolved with an agreement that saves $860 million this year and $1.7 billion over two years, some of it by stretching out lump-sum payments to all federal workers who retire this year and next.

Now, federal workers can receive all their retirement benefits at once upon retirement if they choose. Under the plan, they could receive only 60 percent in the first year of retirement and 40 percent the second. The limitation would be effective only for those retiring in fiscal 1988 and 1989, and congressional aides said they anticipated that it would go into effect the day the deficit package becomes law.

The lump-sum provision accounts for $469 million of the $1.7 billion in two-year Postal Service savings. The rest would come from reductions in future capital expenditures and a requirement that the semi-private service absorb some health costs of retirees.

The $600 billion spending bill still includes language enacting into law the Fairness Doctrine that requires broadcasters to treat controversial issues evenhandedly. Reagan has threatened to veto the measure over the issue, a position a senior White House aide reiterated last night.

But House Speaker Jim Wright (D-Tex.) said yesterday he "can't imagine" Reagan letting the government "come to a crashing halt" over the issue.

White House and congressional leaders spent much of the day haggling over the final language needed to resolve the contra aid issue, which had been the main stumbling block to a deficit package.

One potentially serious snag developed yesterday as the negotiators disagreed over the timetable for when the Reagan administration would be granted a final congressional vote on additional military aid to the contras should the Central American peace process collapse in January.

Democrats insisted that the tentative agreement reached Saturday called for that vote between July and September, during the height of next year's election campaigns. Republicans were demanding that Reagan have the flexibilty to exercise his option at any time to maximize the chance of passage.

The issue was settled by setting the vote for the July to September period, but permitting Reagan to request the additional aid at any time.

Under the complex arrangement agreed to Saturday night:

The Nicaraguan contras would get another $8.1 million through February in food, medicine, shelter, clothing, and the transportation funding to deliver it.

For the first 12 days of 1988, that aid could also be used to ship about 1.5 million pounds in previously authorized military equipment. Such commingling of military aid and new nonlethal aid would not be permitted between January 13 and January 20, during the period when the five Central American presidents will meet to certify whether a cease-fire has been achieved between the contras and the Sandinista government.

Following that hiatus, if Reagan finds by the end of January that there is no cease-fire, that the fault lies with the Sandinistas and that the contras have acted in good faith, he can request new military aid from Congress, which must vote on the request on February 3 and February 4.

If Congress rejects that new request, the Reagan administration will not be granted another opportunity for a vote on further aid under expedited congressional procedures guaranteeing quick action. However, the contras would still get sufficient aid to leave Nicaragua, and the president could still seek further aid through normal legislative procedures that would not necessarily guarantee a vote.

If Congress approves the president's request for new military aid, he would also be guaranteed a second vote under expedited procedures if he wants more aid later in the year.

The complexity of the agreement underscores the intensity of the long battle between the Democratic-controlled Congress and the Reagan White House over funding for the contras. Both sides appeared willing at times to jeopardize a $600 billion bill over a relative pittance that nonetheless carried heavy political and symbolic importance.

For the White House and many Republican lawmakers, the issue was framing an agreement that would not appear to abandon the contras. For Democrats, particularly the House leadership, which had to back off from its previous position of providing

no funding, the issue was linking further aid to the peace process.

"The priorities of the administration are right there very blatantly," Coelho said. "They were prepared to shut down the government. * * * The president's priorities in his closing days are contras, contras, contras."

"I don't think there is any victory for either side," said Senator Ted Stevens (Alaska), a key GOP negotiator on the issue. "It is just a continuation [of aid] until the Guatemala accords play out. * * * It is fraught with danger for [the contras'] future and for Central America."

For Rep. David R. Obey (D-Wis.), a fervent opponent of further aid, the limited attractiveness of the deal is that it might encourage the search for peace and end installment-plan funding of the rebels. "It puts pressure on both the Sandinistas and contras to perform," said Obey. "I don't want to see [the aid] continue dribbing and drabbing. You want one last play, even if it is a Hail Mary for both sides."

On other issues, negotiators reached a compromise over an expansion in Medicaid, which covers health care for low-income Americans. The compromise retained House provisions increasing care for pregnant women and revising rules governing nursing-home care. The cost of the increases in the Medicaid program would be $597 million over three years, according to the Congressional Budget Office, which had estimated that the original Waxman bill would cost an additional $2.3 billion.

Conferees also were close to a deal that would save about $2 billion in Medicare. House Ways and Means Committee Chairman Dan Rostenkowski (D-Ill.) and Senate Finance Committee Chairman Lloyd Bentsen (D-Tex.) defused a conflict over how to increase Medicare reimbursements to Illinois hospitals without depriving those in Texas.

Their method was a common one this time of year: they added $50 million in new funding to the reimbursement program for 1988, keeping rural hospitals even while increasing funds to urban hospitals. The compromise would cost an additional $250 million over three years, money Bentsen said would be made up from reductions in other Medicare programs.

The chairmen also agreed to drop a proposed $10 increase in the deductible paid by Medicare patients. The only remaining disagreement concerned whether to continue linking the amount of Medicare premiums paid by beneficiaries to the cost of the program.

[From the New York Times Dec. 21, 1987]

CONTRA AID ACCORD SET BY CONGRESS AND WHITE HOUSE: $8 MILLION BUT NO ARMS—'WAS THE BEST WE COULD DO,' WRIGHT SAYS AS SHOWDOWN ON POLICY IS DEFERRED

(By Jonathan Fuerbringer)

WASHINGTON, Dec. 20—The White House and Congressional leaders reached final agreement tonight on a compromise that would give $8.1 million in aid to the Nicaraguan rebels and sets up a possible showdown vote on American policy toward the contras in early February.

Democrats and Republicans who worked on the compromise expressed reservations about it, unsure about its impact on the peace process and American policy in Central America.

"You do the best you can do under the circumstances," said House Speaker Jim Wright, who had opposed any new aid to the contras. Asked if the Democrats had "caved in," the Texas Democrat replied, "You can be dissatisfied with it but given the options and what you had to deal with it was the best we could do."

BALANCES POLITICAL DEMANDS

Representative Tony Coelho, Democrat of California, said the White House chief of staff, Howard H. Baker Jr. told the negotiators "that this is the President's last year and he isn't willing to lose the contras on his last vote and he is willing to stay here through Christmas."

The contra aid proposal is designed to balance the President's demand for more aid with the strong opposition, especially among House Democrats, to giving any more assistance to the contras while the process begun by the Central American peace agreement continues.

The issue is complicated by the political difficulty of many moderate Democrats and Republicans who don't want to appear to be promoting the overthrow of Nicaraguan Government but who also do not want to seem to be undermining the contras.

NO WEAPONS OR AMMUNITION

The final details of the plan were worked out by top Democratic and Republican leaders and White House officials. The leaders said they would review the exact legislative language Monday morning, but they expect no problems. Representative Thomas S. Foley of Washington, the House majority leader, said

The authorization for military aid expired when the $100 million appropriation for 1987 ended Sept. 30. Under today's agreement, the aid would include food, clothing, shelter and medical supplies, but the money could not be used to buy arms or ammunition through Feb. 29. The proposal does allow the delivery of previously military equipment with the new aid. The Senate had approved $16 million in aid and the House leadership had approved $5.5 million.

The flurry of negotiating today also produced approval of a one-day, stop-gap spending bill designed to avoid a politically embarrassing shutdown of the Federal Government Monday. It was the fourth emergency spending bill that Congress has had to pass since Oct. 1, prompting Representative John E. Porter, Republican of Illinois, to tell his colleagues, "In other societies you would be held in disgrace and forced to resign for such mismanagement." [Page A17.]

Of the $8.1 million, $3.6 million provides aid at the level the contras have been receiving since Oct. 1. In addition, it provides $4.5 million to cover the cost of transportation of the supplies and new electronic equipment to combat antiaircraft missiles.

But the proposal also sets in motion a process that could result in a cutoff of American aid to the contras after years of conflict between the Congress and the Administration.

POLICY IS CONDITIONAL

The effect of the proposal on American policy will depend on how the Sandinistas and contras behave in the peace process between now and Jan. 15, the date of a meeting of the five Central American presidents who signed the regional peace accord. Democrats and Republicans said that if the peace process fails, it is likely that the President can win approval for more assistance, including military aid. But if the peace process is working, the House will have the opportunity to end the aid in a vote scheduled for Feb. 3.

While the House Democratic leadership has backed down from its initial opposition to more aid, members of the leadership argued that they won a major concession in getting a sure date for an up-or-down vote on continued aid and they say they can defeat the President.

DELIVERIES AFFECTED

The mixed deliveries of previously purchased military equipment and the new aid, which the House had strenuously opposed, would be suspended Jan. 13 for a week during the meeting of the five Central American presidents to review the peace process. The mixed deliveries would allow about 1.5 million pounds of previously purchased equipment and ammunition to be delivered to contra bases in Nicaragua.

The mixed deliveries could resume if Mr. Reagan certifies before the February vote that there is no crease-fire in Nicaragua, the Sandinistas are at fault and the contras have acted in good faith. Then on Feb. 3 and Feb. 4 the House and the Senate would vote on whatever contra aid, including arms and ammunition, the President requests for the rest of the year. Administration officials had discussed a request of $270 million in military aid for 18 months, starting Oct. 1.

If the President loses, the rest of the $8.1 million in aid, and the mixed deliveries, would be made available to the contras until Feb. 29, according to the Democrats.

SECOND CHANCE ON REQUEST

If the President wins, he gets a second chance to request further aid, but the vote on the request would not take place before July 1, the beginning on the last quarter of the fiscal year. This opportunity could mean Mr. Reagan might scale down his February request as much as possible so that he can win and get a second opportunity. In both votes, there are so-called expedited procedures that prevent the vote from being blocked. In either case, Mr. Reagan could seek more aid through the regular legislative processes.

Democrats say it will be difficult to pass the proposal in the House as part of the catch-all appropriations bill. Leaders said they could lose as many as 100 Democrats and they told the White House that the Republicans would have to produce 80 or 90 votes in favor for the measure to be approved. Republican leaders said this could be difficult but that they were working with members today to explain the proposal.

CONFERENCE TO VOTE

The proposal must be approved by the full conference of House and Senate negotiators on the $600 billion catch-all appropriations bills. Then it would go to the House and the Senate.

The House Democratic leadership, which had been relatively confident that it would block new aid to the contras had to scramble for this compromise because of several factors. One was the President's insistence on continuing the aid. The second was the addition of an aid package in the Democratic-controlled Senate. And third was the report just over a week ago of Sandinista plans for a military buildup up a 600,000-man army and other revelations by Roger Miranda Bengoechea, a former Nicaraguan Defense Military official who defected to the United States.

"The President's priorities in his closing days are contras, contras, and contras," said

Mr. Coelho, who is the House Democratic whip and chief vote counter.

DRIVE TO ADJOURN

Referring the drive to adjourn for the year, Representative Leon E. Panetta, Democrat of California and an opponent of the aid, said, "That pressure produces a lot of give."

Representative David R. Obey, a Democrat of Wisconsin who negotiated the compromise and is unhappy with it, said its attraction was that there will be a single vote in February on continuing aid and the suspension of mixed deliveries of previously purchased military equipment and the new aid.

"I detest the idea of any continued mixing of these cargoes," he said. "But if you can have a vote up or down on Feb. 4 it gives you a chance to cut it off."

Senator Ted Stevens, Republican of Alasaka and sponsor of the contra aid proposal in the Senate, expressed the reservations of many Republicans: "We are playing Russian roulette with the contras future," he said.

"I don't think anyone can claim victory on it, none on either side," he said. "What this really is is a continuation until we see how the Guatemala accord plays out."

Mr. DODD. They include statements that "For the first 12 days of 1988, that aid could also be used to ship about 1.5 million pounds in previously authorized military equipment." That "1.5 million pounds" is mistaken. That, in fact, is $1.5 million?

Mr. STEVENS. No, I am not saying that, Mr. President.

I am saying the money left to be expended is $1.5 million, of which $500,000 is for lethal aid. That is lethal material that has already been purchased and stockpiled along with equipment that is not lethal. And the two have to be delivered. I mean, some of it is humanitarian, some of it is military-type of equipment that is not lethal, but others are—ammunition and supplies, lethal supplies, that have been purchased or stockpiled. This is a vast amount. I do not know what the total tonnage is.

Mr. DODD. If my good friend and colleague would yield, in other words you are suggesting that $1.5 million and 1.5 million tons may actually just coincide? That we may have $1.5 million remaining but it would represent 1.5 million pounds of equipment?

Mr. STEVENS. Mr. President, let me just take a couple of minutes of my time to answer the Senator as succinctly as I can.

I stated there was $1.5 million of the amount that was previously authorized left; of which $500,000 is for the purchase of lethal aid.

I am informed that there is a substantial quantity of supplies that are on the ground that have to be moved incidentally to the movement of the humanitarian aid that is being authorized here. That includes lethal aid, nonlethal military aid, and humanitarian supplies that have previously been purchased. The total tonnage I have never mentioned because I do not know.

Mr. DODD. So it would merely be coincidental, the $1.5 million and the 1.5 million tons happen to coincide?

Mr. STEVENS. I cannot vouch for the accuracy of the newspaper report in terms of tonnage.

Mr. DODD. I thank my colleague for that response. Let me ask something else. I read the amendment that was agreed to by the conferees, but I am a little confused what the total dollar amount is. If I could ask my good friend and colleague from Alaska, how much money is in this continuing resolution for Contra assistance?

Mr. STEVENS. The amendment I offered and passed the Senate was for $9 million in humanitarian aid plus the authorization for transportation of that aid and previously authorized aid, both lethal and nonlethal.

This amendment now has substituted for that the figures of $3.6 million for humanitarian assistance through February 29 of next year, $4.5 million for the transportation of that humanitarian assistance and the aid that has previously been authorized that we have mentioned, and it also authorizes the issue of equipment from the Department of Defense to assure the safe transportation of that equipment and aid. And it also authorizes ECM for the aircraft and indemnification of the aircraft in the event that there is any loss.

But I would say that this figure is less than the amount that was authorized by my amendment. It has been compromised but it has really been brought down to where it is strictly identified. There would be two classified letters delivered to the Appropriations Committee and the Intelligence Committee spelling out in detail what that equipment that is to be transported is.

Mr. DODD. Could my good friend and colleague give me a ball park figure, $8.1, $3.6 million——

Mr. STEVENS. The ball park figure I would say in the original amendment the Senate passed was somewhat in excess of $16 million; this would be somewhat near $15 million.

Mr. DODD. So the total package of Contra aid here is roughly $15 million?

Mr. STEVENS. That includes the indemnification that may never come into effect. The authorization here is for the expenditure of a maximum of about $15 million of which somewhere in excess of $8 million is expected to be spent.

Mr. DODD. The $8.1 million would cover the 3.6 million dollars' worth of humanitarian assistance, $4.5 million for transportation costs. That gets you $8.1 million. The additional costs would be for the passive air defense equipment and for the indemnification cost for leased aircraft?

Mr. STEVENS. That would be a maximum. I think the figure sticks in my mind of $2.8 million. If you take that off, because of course that has not occurred yet, it would be paid only in the event of the loss of the aircraft, it is somewhere around $13 million.

Mr. DODD. Rather than 8.1, what we are really talking about is something in excess—between $13 million and $14 million.

Mr. STEVENS. It is hard to say what kind of air defense equipment they are going to finally agree upon. When they finally purchase the aircraft they will find out what they are going to do with it and there is also negotiation on the lease of the aircraft and it, in my judgment, without the indemnification, it is somewhere around $13 million.

Mr. DODD. Roughly $13 million. I thank my colleague.

Mr. President, let me must say, and I appreciate my colleague's response, those very candid answers; and he will appreciate, when I read the press reports this morning when I read about 1.5 million pounds of lethal equipment as opposed to $1.5 million, I was somewhat confused as to exactly what we were talking about in terms of lethal assistance.

My colleague has made an effort to clarify that and I think I understand what he was saying about the confusion of those two items; and second, what we are talking about here, even though the amendment only talks about $8.1 million, what we are talking about in Contra assistance here is something in the neighborhood of $13 million to $14 million over the next 2 months in Contra assistance.

Mr. STEVENS. Two months.

Mr. DODD. Through February, into January and February.

And I appreciate that answer as well since there was some confusion, since the amendment only talks about the $8.1 million and the other two parts of the bill are left without any costs associated with them. So I think for the purposes of clarification we all ought to understand exactly what we are dealing with here.

The Senate amendment the other night, as the Senator from Alaska pointed out, was something in excess of $15 million humanitarian assistance, delivery of lethal assistance, transportation costs roughly $15 million. What we are basically settling on here is a compromise that gets us somewhere around $14 million if you take in the costs all together. I happen to think that is excessive considering the interests of the peace accords and what is at stake in Central America. But, nonetheless, I appreciate the effort of the conferees.

This is not easy to deal with these issues. I realize that. They have worked long and hard over this weekend to try to reach some agreement. It is not easy but the Senator from Connecticut has to share with his col-

leagues at this late hour that that is a disappointment in terms of compromise and, Mr. President, I yield the floor.

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

The Senator from Alaska has 8 minutes left and the Senator from Wisconsin has 40 seconds left.

Mr. STEVENS. I yield to the Senator from Mississippi.

Mr. STENNIS. The conference report on this continuing resolution contains appropriations for the Department of Defense for fiscal year 1988. The Budget Summit Agreement allocated $292 billion for national defense, a decrease of $20 billion from the President's budget request.

The Defense subcommittee's share of the summit agreement is $276 billion in budget authority with outlays of $270.4 billion. The conference report before you provides $275.6 billion in budget authority and $270.4 billion in outlays. This amount is $1 billion in budget authority above the level recommended by the Senate and $12.6 billion above the House. It is consistent with the level agreed to in the budget summit.

The conferees worked hard in fashioning an agreement which meets the mandated targets and provides for a strong national defense. Like any compromise it is not a perfect bill, but it adequately protects readiness while providing sufficient funds to maintain vital modernization programs.

There are a few recommendations I would like to highlight in particular:

The sum of $3.6 billion is provided for the strategic defense initiative, in accordance with the authorization agreement.

Both the small ICBM and the MX missile are funded to keep all options open for our negotiators in the upcoming strategic arms reductions talks.

Conventional forces are protected as army equipment modernization levels are increased above the budget for tanks and helicopters.

More than $80 billion is provided to operate and maintain our military forces.

Active military strength levels are supported at the requested levels, while Guard and Reserve Forces are increased by 18,734 from 1987 levels.

Included within the bill for a 2-percent military pay raise is $875 million.

Added to budgeted levels for equipment for our National Guard and Reserve forces, $1.2 billion.

Two replacement nuclear aircraft carriers are fully funded, saving nearly $700 million over the planned acquisition strategy.

Mr. President, I believe this is a good conference agreement which accurately reflects congressional priorities and the requirements of a strong national defense. I urge the support of all my colleagues for this agreement.

Mr. STEVENS. Mr. President, I want to add to what the Senator from Connecticut had said. This amended provision in this continuing resolution with the Contras provides for suspension of all lethal aid during the period between January 12 and January 18 in order to try and see to it that the cease-fire will be observed if one is reached. The whole direction of the modification of the amendment is intended to support the peace process and to try and encourage the parties in Nicaragua to come together and reach an agreement. It is our hope that that will happen.

If that does not happen the matter will be back before the Senate on February 4 for a determination upon the President's request, if he decides to make one, for further aid.

Again, I emphasize, this new amendment authorizes the purchase of no additional lethal aid. It is strictly humanitarian assistance plus the transportation of such aid that was previously authorized.

NOT ENOUGH FOR SDI

Mr. HEFLIN. Mr. President, I rise to express strong reservations relative to a funding level we are about to approve for a program which I believe is vitally important to our national defense and that of our allies—the strategic defense initiative [SDI].

Now, Mr. President, over the years, I have made no secret of my support for a strong national defense and a strong and viable Strategic Defense Initiative Program. However, the Congress is about to agree to a funding level of $3.9 billion for the SDI Program for fiscal year 1988. In my judgment, a funding level this low is ill-advised at a time when the United States is embarking on a vigorous and comprehensive research program to analyze and design defenses that enhance the security of our Nation and our allies, provide a hedge against a Soviet breakout of the ABM Treaty, and ultimately, if feasible, provide options on whether to develop and deploy advanced defensive systems. As I have said many times before this body, SDI represents a welcome shift in our strategic policy from one which relies upon the doctrine of mutual assured destruction for deterrence to one based upon a commitment to self-defense.

I am afraid that the effect of a funding level as low as $3.9 billion would be to gut many of the existing programs now ongoing within the SDI organization, threaten critical elements of the program, and undermine the promising arms control negotiations on reduction of strategic offensive arms.

Mr. President, I wonder what could be more stabilizing than the ability to defend one's homeland against nuclear attack, intentional or, certainly, accidental?

On March 23, 1983, when President Reagan made his historic announcement initiating the SDI Program, I was one of the first in Congress to officially congratulate him on his initiative and foresight. It was the right decision at the right time and placed us on a track of building a more balanced strategic force which would no longer rely entirely on the threat of retaliation to ensure nuclear deterrence. In the more than 4 years since its inception, the SDI Program has made significant technological progress and has provided strong incentives to the Soviets to enter into serious arms control talks.

Mr. President, this is no time to cripple or defeat the program that has shown such excellent and rapid progress and brought the Soviets back to the negotiating table. I feel very strongly about this point, and believe the Congress is making a mistake by not allowing SDI to continue at a more vigorous and robust rate.

Regrettably, Congress has seen fit to make deep cuts in the President's SDI budget every year since its inception. For fiscal year 1988, the President requested $5.68 billion for the Departments of Defense and Energy SDI funding. Now, this year, Congress is going to cut that back to $3.9 billion.

Now, Mr. President, I do not want any of my colleagues to misunderstand me. I am not saying that $3.9 billion is going to kill the SDI Program. A funding of $3.9 billion will not kill the SDI Program. I realize that this is more than the program received last year. However, what will happen with this funding level is that it would no longer be possible for the SDI Program to keep many of its major programs going at the currently reduced rate. This funding level will force even more severe cuts in major programs and elimination of a great many others. In my judgment, this is not the time to force such far-reaching decisions—decisions which will preclude future options for defending our Nation and tie the hands of our arms control negotiators.

In particular, I am concerned that some of the ground-based elements of the SDI Program, which provide us with high confidence and survivable hedge options for our future security will be endangered by severe budget reductions. These elements can be based securely on our own soil should the need arise, and can preferentially defend high valued targets to preserve deterrence. It is not wise to sever the ground-based legs of a multitiered SDI concept for ultimately protecting this Nation against any nuclear missile attack, nor is it prudent to force the elimination of the more mature ground-based elements before we have perfected the long-term technologies, such as directed energy weapons.

Mr. President, the Soviet threat is real. The Soviets are moving much

more rapidly than the United States in developing their own SDI system. This fact alone should make Congress rethink its appropriation level.

With a funding level of only $3.9 billion, SDI may be required to make a major reappraisal of the program. This is regrettable since the SDI Program has shown such outstanding progress and promise in the last 4½ years. To reduce the program beyond the viability needed to protect our defense options would send the wrong signal to the Soviet Union, severely injuring the SDI Program, and setting its development and an informed decision on a possible deployment of a strategic defense system back several years.

Mr. President, I appreciate this opportunity to address the Senate in order to express my strong reservations relative to what Congress may be doing to the SDI Program this year. I am hopeful that a funding level of $3.9 billion will allow the program to continue its major elements. This is absolutely the minimum acceptable level for this program. I am very hopeful that in the coming years, Congress will not so severely cut this program back. We simply cannot afford to cut so deeply into a defense program will such far-reaching promise.

I would like to conclude with a question which I asked previously. Mr. President, what could be more stabilizing than the ability to defend one's homeland against nuclear attack either intentional or, certainly, accidental?

Thank you, Mr. President.

LEGISLATION IN THE CR ON PANAMA

Mr. D'AMATO. Mr. President, I rise to commend the members of the Senate and House Appropriations Committees who have worked hard to hammer out this final bill. Although it is universally agreed that the use of the continuing resolution is detrimental to the budget process, it does not diminish the herculean task my colleagues have accomplished these past few difficult days.

I want to bring to the attention of my colleagues a foreign policy provision in this continuing resolution that I believe will encourage democratic change in Panama. This provision bans all economic and military aid to the Government of Panama as well as eliminates that nation's sugar export quota program unless the Government establishes certain democratic reforms.

This provision, unanimously approved on November 19 by the Senate Foreign Relations Committee, was subsequently incorporated into the foreign operations section of the continuing resolution. I want to commend my good friends, Senators INOUYE and KASTEN, for their commitment to this issue. Without their assistance and leadership, it is likely that no legislation would have passed during this session of Congress.

Mr. President, seldom have we seen a foreign policy issue with such bipartisan support. This unanimity has not been without impact. The Government of Panama recently announced that opposition newspapers will be allowed to reopen and the President of Panama will suspend arrest warrants in connection with the political unrest in Panama. This provision allows the administration to restore the sugar quota for Panama if freedom of the press, due process of law and other constitutional guarantees are restored. It appears that, so far, we are being heard.

Restoration of the freedom of the press and recission of arrest warrants are not insignificant steps. Yet, Mr. President, there is a long way to go. Time will tell whether the press will stay free and the political opposition at liberty.

The principal remaining obstacle to democracy in Panama is General Noriega. It is widely believed that honest elections cannot occur while Noriega remains in control. Curtailed military control over the levers of government is necessary for the advent of democracy. Until military influence is diminished, there can be little movement toward democracy.

As recently reported in the Washington Post, General Noriega is now making contact with the Soviet Union and with Libya in a desperate move to bolster his rapidly deteriorating dictatorship. I ask unanimous consent that a copy of that article be included in the RECORD in its entirety at the end of my statement.

It is my hope, Mr. President, that General Noriega will decide to do what is right for Panama. The United States has no better friends in Latin America than the people of Panama. General Noriega's attempts to drive a wedge between Panamanians and Americans have thus far been futile. This provision demonstrates to the Panamanians that Americans stand by democracy.

It is to be hoped that this will send a clear and unmistakable signal to General Noriega that they are being held to the promise to move toward a civilian-run democracy. As long as the United States stands firm in this commitment, the nation of Panama will know who its true friends are.

Thank you, Mr. President.

RESERVATIONS ON SPACE FUNDING

Mr. HEFLIN. Mr. President, I rise in order to express my strong concern over what the Congress may be doing to the space program, particularly the space station, in terms of funding, or the lack thereof. I am not sure that all of my colleagues in the Senate are fully aware of the serious financial troubles the space program is in. In that regard, it may be time to discuss with the Senate the benefits of the space program, and the detrimental effects that fiscal year 1988 NASA appropriations level will have on the America's progress in space.

For fiscal year 1988, NASA requested slightly more than $9.5 billion. However, their approved funding level for next fiscal year will only be a little more than $8.8 billion. Mr. President, NASA had cut their budget to the bone before they ever made a request to Congress. Now, they will have to cut more. These severe budget cuts will force cancellation of many important space science programs and the delay of many others. I would welcome the opportunity to learn of a single NASA program which will not suffer in terms of progress and output in the next year due to congressional funding. This week, I was troubled to learn that because of congressional funding troubles, the first shuttle launch date may have to be delayed once again.

Mr. President, I am particularly concerned over the approved level of funding for the space station program. NASA requested $767 million for the space station for 1988. In the continuing appropriations bill under consideration today, Congress will fund the space station at only $425 million. If you add the approximate $90 million that is reprogrammed from leftover NASA funds, the space station program will only have a total of a little more than $515 million for the next year. While this level will allow the program to continue, it will only allow it to slowly move forward and most assuredly cause program delays as much as a year or more which will add significantly to the total program cost.

I truly believe that space is the greatest adventure of our time, and any nation that sees itself as a world leader cannot, and must not, ignore it. There are so many great benefits that space offers to our Nation, that it is impossible to count them. Every dollar that we put into our space station program is an investment in the future of our Nation. In my judgment, the space station, and space program in general, is too important to America's future and to science and technology research to stand idly by and let this program become severely crippled or killed.

This is a critical time for our Nation's space program. We have experienced nearly 2 years of down time with the shuttle and have fallen far behind the Soviets in manned space technology research. While the United States may still be preeminent in space research on the whole, if we allow the space station of the United States to be killed, it will not be long before the entire space program of the United States will fall also.

Mr. President, the scientific, material, and medical spinoffs of current pro-

grams and the potential future spinoffs of the space station are reasons to throw full support behind this all important program. I would encourage my colleagues to get a copy of NASA's recently published 1987 "Spinoff Book" and read it. I am sure anyone who takes a look at the book will be pleasantly surprised by the wide range of areas in which the space program touches our everyday lives.

Other nations of this world have recognized the importance to their economies, national securities, and to their future that space technology offers. They will not stand idly by and wait for the United States to build back its space program. The Europeans, the Japanese, and particularly the Soviets will push ahead. Mr. President, we cannot be left behind or relegated to a position of simply tagging along other nations in space.

I do not mean to stand here and simply say that we should keep up with the Joneses. In my judgment, it is more important to have a strong and robust space program because of the unlimited benefits that it offers to our Nation as a whole. The simple fact is the merits far outweigh the costs.

Mr. President, deeply embedded in our national history and a true part of an American spirit is the need to be pioneers, adventurers, and entrepreneurs. We did not invent the industrial revolution, but we exploited and improved upon it until we became a world power. Likewise, we may not have been the first in space; but once sputnik raised our national conscience, we became the world's leading space pioneer. Mr. President, we have the opportunity, by way of the space station, our next logical step in space, to recapture the American preeminence in space on every realm of space technology.

As the first Senator to call for the development of a permanently manned space station, I have followed its progress very closely. As I have often said, I believe the manned space station is the most exciting and promising program undertaken by NASA since we went to the Moon, and it is vitally important that we keep its development on schedule.

Not only will a space station enhance our country's science and scientific applications programs, it will also encourage development of capabilities for further commercialization of space and stimulate advanced technologies. In essence, it will be a research center in space. Potential applications of a space station include new and novel products, as well as research to improve processes in the fields of biology, metallurgy, crystal growth, amorphous materials, chemistry, and vacuum processes.

As you can see, Mr. President, the benefits of the space station program are immeasurable. It is simply hard for me to believe that in a trillion-dollar budget, Congress cannot find adequate funding for this vitally important project.

Mr. President, the Congress is not alone to blame for the financial troubles of the space station program. The administration has been less than helpful since the President initiated the program in his State of the Union Address in 1984. Many in Congress support the space station. However, those same supporters have become disappointed and discouraged by the President's recent lack of support for the program. In that regard, I seriously question the President's commitment and the commitment of this administration to the space station. In my judgment, it is critical that the President personally intervene in the appropriations process in the coming years to secure the space station's future.

There is little question about the ultimate importance of such an endeavor. The space station program is tied to our economy, to our national security and to advances in science and scientific applications. The space station will be used for maintaining technological leadership, for international prestige, and, of course, for stimulating the human spirit.

As the Bible says, "Where there is no vision, the people perish." Mr. President, this is not a matter of not being able to afford the space station. This is a matter of not being able to afford not having a space station.

Thank you, Mr. President.

(By request of Mr. DOLE the following statement was ordered to be printed in the RECORD:)

● Mr. MURKOWSKI. Mr. President, the continuing resolution contains essential legislation to address the inability of our construction industry to gain access to public works markets overseas.

In the energy and water, military construction, and Department of Transportation appropriations bills, the conferees adopted construction service reciprocity provisions that this body had unanimously adopted when those measures were debated separately earlier in the session.

These provisions simply mandate market access. No architecture, engineering, or construction firm of a foreign country that has a closed market for AEC services for Government-funded projects may bid or receive a Federal contract for construction associated with transportation, domestic, military, or energy and water development projects. These measures rely on the U.S. Trade Representative to determine which country or countries deny market access for public works projects.

In addition, the conferees adopted a reciprocity provision for all construction AEC services and supplies which are an integral part of the construction projects. This provision will apply across the board to all Government-funded public projects. This amendment was a compromise between the language which I introduced, and was passed by the Senate; and a provision authored by Congressman JACK BROOKS of Texas, which was adopted in the House, by an overwhelming vote.

The Murkowski-Brooks compromise combines the best elements of both bills. It ensures reciprocity in bidding for construction services and supplies on Government contracts. Exclusion of bidders would be based on findings by the USTR that the bidders home country maintains barriers to U.S. construction services and supplies in bidding and procurement for major projects. The compromise also contains provisions by which a country, which is excluded from Government-funded projects, can become eligible to participate upon providing verifiable evidence to the President and USTR that positive action has been taken to remove their barriers to U.S. services and products in major projects.

We view the Murkowski-Brooks compromise language contained in this bill as a solid foundation for ensuring reciprocity in bidding for Government projects well beyond fiscal year 1988. I want to commend my colleague Congressman BROOKS for his diligence and cooperation in forging this compromise. It sends a clear message to trading partners who maintain barriers to U.S. construction products and services that we will use the leverage of our market to see these barriers removed.

Mr. President, I call attention to the fact that direction given to an agency in a committee report remains binding unless specifically contradicted in a conference committee report.

I have for some time been deeply concerned that the Department of State and the Immigration and Naturalization Service have failed to implement the Visa Waiver Pilot Program mandated by the Immigration and Naturalization Reform Act of 1986. As my distinguished colleagues know, the 3-year pilot program would allow the entry of eligible tourists from several countries chosen from among those which met two basic criteria: Low rejection rates for U.S. visa applications, and a reciprocal arrangement allowing the entry of U.S. citizens without visas.

In this regard, the Senate Committee on Appropriations report on appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies directs the two involved agencies to proceed with this important program in a timely manner.

This language remains binding on the agencies, as it was not withdrawn or contradicted in any way by the report of the conference committee on the continuing resolution. As a result, the agencies in question should consider themselves on notice that they will be held accountable for any further failure to implement this section of the 1986 law●

Mr. HECHT. I would like to ask the distinguished acting chairman of the Appropriations Subcommittee on Interior and Related Agencies about the conference committee's treatment of the Fish and Wildlife Service's budget for endangered species work in fiscal year 1988. I had previously contacted the subcommittee urging a $120,000 increase for research on the population dynamics and flow/temperature requirements of the endangered cui-ui fish of Pyramid Lake. This $120,000 would be for the first year of a 5-year line of research on this subject. I note that the conference committee chose not to earmark funds for specific endangered species activities. My question is this: Is there any reason to assume that the committee would not approve of this research being funded by the Service in fiscal year 1988?

Mr. JOHNSTON. I would assure the Senator that there would be no reason at all to come to that conclusion. In fact, the committee would not have any objection at all for some of the funds in the endangered species program to be spent on research on endangered species of the sort the senior Senator from Nevada is suggesting. The committee is mindful of the importance of the cui-ui population in its affect on water management in northern Nevada, and understands the value and need for the research on the cui-ui which is supported by the Senator.

Mr. HECHT. I thank the distinguished acting chairman for his interest and assistance in this matter.

INTERIOR CHAPTER OF HOUSE JOINT RESOLUTION 395

Mr. JOHNSTON. Mr. President, the Interior chapter of this joint resolution totals $9,287,523,000 in budget authority and $9,644,178,000 in outlays. As I'm certain we all fully realize, this has been a long and difficult year. The House of Representatives passed its version of the Department of the Interior and Related Agencies appropriations bill, H.R. 2712, on June 25, 1987; and the Senate completed its action on September 30. As is true for many other appropriations bills, final action on Interior matters has been delayed for the last 2½ months pending completion of the budget summit agreement with the President. With those negotiations now behind us, we have completed conference action on H.R. 2712, reducing it some $750,000,000 below the budget authority level approved by the Senate earlier this fall.

These have been painful reductions. They were sacrifices made out of economic necessity; but the choices were no less difficult. I, for one, am particularly concerned about the cuts that had to be made in the strategic petroleum reserve which was reduced by some $368,000,000 from the original Senate allowance for petroleum acquisition. This action reduces the reserve's fill rate from 100,000 barrels per day for most of fiscal year 1988 to approximately 50,000 barrels per day for the entire year. Frankly, I was not satisfied even with the earlier rate of 100,000 barrels a day; and I think the situation we now find ourselves in underscores the need to move the petroleum acquisition account off budget, as it was several years ago.

Another major reduction from the earlier Senate figure was made in the Clean Coal Program which is included in the conference agreement at $575,000,000 over 2 years. This amount is some $275,000,000 less than the Senate-passed level of $850,000,000. While we have not fully funded the President's budget request for clean coal technology in support of his agreement with Canadian Prime Minister Mulroney, the action taken by the managers on this conference agreement makes no assumptions about reduced funding levels for subsequent years of this $2.5 billion agreement. The Appropriations Committee will address additional funding for this program in the future.

The remaining reductions, Mr. President, were taken from specific programs throughout the bill. I'm pleased to say that the committee was able to avoid an across-the-board percentage reduction to all programs in this bill and still was able to achieve its budgetary targets.

The final conference agreement includes a number of items which I would like to highlight at this point. First, land acquisition funding totals $40.7 million in the Park Service, $51.8 million for the Fish and Wildlife Service, $49.1 million in the Forest Service and $8.9 million in the Bureau of Land Management. Additionally, $20 million has been provided for State grants from the land and water conservation fund. Another item that received considerable attention is the Forest Road Construction Program which is included at $141.5 million, down some $38.5 million from the fiscal year 1987 appropriation for this purpose. We were able to make considerable savings in this program this year due to the lower cost of timber salvage sales.

I could go on at some length, Mr. President, but in the interest of time, I will insert in the RECORD a detailed table which outlines all of the final agreements related to the conference on H.R. 2712, the Interior bill.

The table follows:

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
TITLE I - DEPARTMENT OF THE INTERIOR									
BUREAU OF LAND MANAGEMENT									
Management of Lands and Resources									
Onshore Energy and Minerals Management									
Energy Resources									
Coal Leasing	13,695	14,580	14,580	13,695	13,695	---	-885	-885	---
Oil & Gas Leasing	46,019	49,742	49,742	46,019	47,519	+1,500	-2,223	-2,223	+1,500
Geothermal leasing	2,475	2,649	2,649	2,475	2,475	---	-174	-174	---
Subtotal, Energy Resources	62,189	66,971	66,971	62,189	63,689	+1,500	-3,282	-3,282	+1,500
Non-Energy Minerals									
Mineral Material Sales	2,184	2,354	2,354	2,354	2,354	+170	---	---	---
Mining Law Administration	9,010	9,940	9,940	10,340	10,340	+1,330	+400	+400	---
Mineral Leasing	3,868	4,114	4,114	4,114	4,114	+246	---	---	---
Uranium operations	621	659	659	659	659	+38	---	---	---
Subtotal, Non-Energy Minerals	15,683	17,067	17,067	17,467	17,467	+1,784	+400	+400	---
Subtotal, Energy and Minerals Management	77,872	84,038	84,038	79,656	81,156	+3,284	-2,882	-2,882	+1,500
Lands and Realty Management									
Realty Operations									
Energy Realty	8,063	7,955	7,955	7,955	7,955	-108	---	---	---
Non-Energy Realty	16,725	22,224	22,224	22,224	22,224	+5,499	---	---	---
Alaska Lands program	13,684	11,844	12,093	14,093	14,093	+409	+2,249	+2,000	---
Subtotal, Realty operations	38,472	42,023	42,272	44,272	44,272	+5,800	+2,249	+2,000	---
Withdrawal Processing and Review	3,732	3,491	3,491	3,491	3,491	-241	---	---	---
Subtotal, Lands and Realty Management	42,204	45,514	45,763	47,763	47,763	+5,559	+2,249	+2,000	---
Renewable Resources Management									
Forest Management									
Public Domain	6,106	5,507	6,507	6,507	6,507	+401	+1,000	---	---
Western Oregon	914	---	914	914	914	---	+914	---	---
Subtotal, Forest Management	7,020	5,507	7,421	7,421	7,421	+401	+1,914	---	---
Range Management									
Wild Horse & Burro Management	17,777	14,774	14,774	14,774	14,774	-3,003	---	---	---
Grazing Management	36,360	33,333	33,833	34,883	34,123	-2,237	+790	+290	-760
Subtotal, Range Management	54,137	48,107	48,607	49,657	48,897	-5,240	+790	+290	-760
Soil, Water, & Air Management	17,230	15,256	17,606	20,006	20,006	+2,776	+4,650	+2,400	---
Wildlife Habitat Management	16,126	14,747	17,057	20,417	18,357	+2,231	+3,610	+1,300	-2,060
Recreation Management									
Cultural Resources Management	6,618	5,469	7,009	6,409	6,484	-134	+1,015	-525	+75
Wilderness Management	7,254	7,411	7,411	9,556	7,411	+157	---	---	-2,145
Recreation Resources Management	9,092	8,188	9,682	9,282	10,732	+1,640	+2,544	+1,050	+1,450
Subtotal, Recreation Management	22,964	21,068	24,102	25,247	24,627	+1,663	+3,559	+525	-620
Fire Management	8,847	9,305	9,555	9,305	9,555	+708	+250	---	+250
Subtotal, Renewable Resources Management	126,324	114,090	124,348	132,053	128,863	+2,539	+14,773	+4,515	-3,190

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Planning and Data Management									
Planning	9,525	9,680	9,680	9,680	9,680	+155	---	---	---
Data Management	14,888	21,078	21,078	21,078	21,078	+6,190	---	---	---
Subtotal, Planning and Data Management	24,413	30,758	30,758	30,758	30,758	+6,345	---	---	---
Cadastral Survey									
Alaska	15,059	11,483	11,483	15,483	15,483	+424	+4,000	+4,000	---
Other States	11,622	12,538	12,538	12,538	12,538	+916	---	---	---
Subtotal, Cadastral Survey	26,681	24,021	24,021	28,021	28,021	+1,340	+4,000	+4,000	---
Fire control									
Firefighting & Presuppression	86,492	3,492	78,492	78,492	78,492	-8,000	+75,000	---	---
Rehabilitation	584	584	584	584	584	---	---	---	---
Subtotal, Fire Control	87,076	4,076	79,076	79,076	79,076	-8,000	+75,000	---	---
Technical Services									
Resource Protection	3,320	3,431	3,431	3,431	3,431	+111	---	---	---
Maintenance and engineeering services									
Buildings	3,421	3,990	3,990	3,990	3,990	+569	---	---	---
Recreation	3,681	4,832	4,832	4,832	4,832	+1,151	---	---	---
Transportation	3,483	4,268	4,268	4,268	4,268	+785	---	---	---
Maintenance improvement	1,000	---	---	---	---	-1,000	---	---	---
Engineering services	1,160	1,353	1,353	1,353	1,353	+193	---	---	---
Subtotal, Maintenance and engineering services	12,745	14,443	14,443	14,443	14,443	+1,698	---	---	---
Subtotal, Technical Services	16,065	17,874	17,874	17,874	17,874	+1,809	---	---	---
General Administration									
Executive and managerial direction	5,525	5,831	5,831	5,831	5,831	+306	---	---	---
Equal employment opportunity	2,056	2,246	2,246	2,246	2,246	+190	---	---	---
Administrative services support	30,680	33,195	33,195	33,195	33,195	+2,515	---	---	---
Bureauwide fixed costs	46,840	46,309	46,499	46,499	46,499	-341	+190	---	---
Subtotal, General Administration	85,101	87,581	87,771	87,771	87,771	+2,670	+190	---	---
Pay and retirement supplemental	9,402	---	---	---	---	-9,402	---	---	---
FERS reestimate	---	---	---	---	-2,299	-2,299	-2,299	-2,299	-2,299
Total, Management of Lands and Resources	495,138	407,952	493,649	502,972	498,983	+3,845	+91,031	+5,334	-3,989
Construction and Access									
Access	1,200	1,281	1,281	1,281	1,281	+81	---	---	---
Construction	1,600	---	700	1,455	2,155	+555	+2,155	+1,455	+700
FERS reestimate	---	---	---	---	-6	-6	-6	-6	-6
Total, Construction and Access	2,800	1,281	1,981	2,736	3,430	+630	+2,149	+1,449	+694
Payments in Lieu of Taxes									
Payments to Local Governments	105,000	105,000	105,000	105,000	105,000	---	---	---	---
Land Acquisition									
Bureau of Land Management:									
Acquisitions	5,920	10	3,670	9,485	8,285	+2,365	+8,275	+4,615	-1,200

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Acquisition Management	300	---	500	750	600	+300	+600	+100	-150
Subtotal, Land Acquisition	6,220	10	4,170	10,235	8,885	+2,665	+8,875	+4,715	-1,350
Rescission	-3,200	---	---	---	---	+3,200	---	---	---
Total, Land Acquisition	3,020	10	4,170	10,235	8,885	+5,865	+8,875	+4,715	-1,350
Oregon & California Grant Lands									
Construction and Acquisition	528	556	886	556	856	+328	+300	-30	+300
Maintenance	4,120	3,758	3,758	4,258	3,905	-215	+147	+147	-353
Renewable Resource Management	48,931	48,678	51,478	52,375	52,278	+3,347	+3,600	+800	-97
Planning and Data Management	945	945	1,695	945	1,695	+750	+750	---	+750
Pay and retirement supplemental	1,294	---	---	---	---	-1,294	---	---	---
FERS reestimate	---	---	---	---	-259	-259	-259	-259	-259
Total, Oregon & California Grant Lands	55,818	53,937	57,817	58,134	58,475	+2,657	+4,538	+658	+341
Range Improvement Fund									
Improvement to Public Lands	7,703	6,956	6,956	6,956	6,956	-747	---	---	---
Farm Tenant Act Lands	950	950	950	950	950	---	---	---	---
Administrative expenses	600	600	600	600	600	---	---	---	---
Total, Range Improvements	9,253	8,506	8,506	8,506	8,506	-747	---	---	---
Service Charges, Deposits, and Forfeitures									
Rights-of-way Processing	2,695	2,695	2,695	2,695	2,695	---	---	---	---
Adopt-a-horse program	500	500	500	500	500	---	---	---	---
Repair of Damaged Lands	1,850	650	650	650	650	-1,200	---	---	---
Cost recoverable realty cases	150	150	150	150	150	---	---	---	---
Timber purchaser expenses	---	1,200	1,200	1,200	1,200	+1,200	---	---	---
Copy fees	---	2,000	2,000	2,000	2,000	+2,000	---	---	---
Total, Service Charges, Deposits, and Forfeitures	5,195	7,195	7,195	7,195	7,195	+2,000	---	---	---
Miscellaneous Trust Funds									
Base Program	100	100	100	100	100	---	---	---	---
Total, Bureau of Land Management	676,324	583,981	678,418	694,878	690,574	+14,250	+106,593	+12,156	-4,304
U.S. FISH AND WILDLIFE SERVICE									
Resource Management									
Fish and Wildlife Enhancement									
Endangered species									
Listing	3,567	3,222	3,472	3,472	3,472	-95	+250	---	---
Consultation	3,115	3,022	3,172	3,172	3,172	+57	+150	---	---
Permits	842	859	859	859	859	+17	---	---	---
Recovery	6,391	5,819	6,819	8,319	7,319	+928	+1,500	+500	-1,000
Grants to States	4,300	---	4,300	4,300	4,300	---	+4,300	---	---
Subtotal, Endangered species	18,215	12,922	18,622	20,122	19,122	+907	+6,200	+500	-1,000

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Ecological services	17,924	18,413	19,913	19,413	19,713	+1,789	+1,300	-200	+300
Environmental contaminants	4,947	5,002	6,002	6,002	6,002	+1,055	+1,000	---	---
National wetlands inventory	5,254	5,328	4,263	5,328	5,128	-126	-200	+865	-200
Subtotal, Fish and Wildlife Enhancement	46,340	41,665	48,800	50,865	49,965	+3,625	+8,300	+1,165	-900
Refuges and Wildlife									
Refuge operations and maintenance	109,368	96,189	113,508	116,099	117,249	+7,881	+21,060	+3,741	+1,150
Law enforcement operations	17,933	18,140	21,140	20,720	20,840	+2,907	+2,700	-300	+120
Migratory bird management	8,010	7,800	7,909	8,709	8,609	+599	+809	+700	-100
Subtotal, Refuges and Wildlife	135,311	122,129	142,557	145,528	146,698	+11,387	+24,569	+4,141	+1,170
Fisheries									
Hatchery operations and maintenance	23,949	24,742	25,242	26,053	26,334	+2,385	+1,592	+1,092	+281
Lower Snake River Compensation Fund	6,380	7,623	6,409	6,528	6,528	+148	-1,095	+119	---
Fish and wildlife management	4,977	5,143	5,393	5,519	5,835	+858	+692	+442	+316
Subtotal, Fisheries	35,306	37,508	37,044	38,100	38,697	+3,391	+1,189	+1,653	+597
Research and Development									
Fish and wildlife research center O & M	43,417	41,148	47,163	46,963	48,119	+4,702	+6,971	+956	+1,156
Technical development	5,458	5,371	5,371	5,771	5,771	+313	+400	+400	---
Cooperative research units	4,564	4,941	5,441	5,941	5,741	+1,177	+800	+300	-200
Subtotal, Research and Development	53,439	51,460	57,975	58,675	59,631	+6,192	+8,171	+1,656	+956
General Administration									
Fish and Wildlife Foundation Matching grants	---	---	250	750	500	+500	+500	+250	-250
Central office administration	11,144	11,597	11,420	11,597	11,420	+276	-177	---	-177
Regional office administration	12,378	13,145	13,145	13,145	13,145	+767	---	---	---
Servicewide administrative support	20,453	21,056	20,690	20,556	20,556	+103	-500	-134	---
Engineering services	3,421	3,643	3,643	3,643	3,643	+222	---	---	---
Subtotal, General Administration	47,396	49,441	49,148	49,691	49,264	+1,868	-177	+116	-427
Pay and retirement supplemental	5,846	---	---	---	---	-5,846	---	---	---
FERS reestimate	---	---	---	---	-1,661	-1,661	-1,661	-1,661	-1,661
Total, Resource Management	323,638	302,203	335,524	342,859	342,594	+18,956	+40,391	+7,070	-265
Construction and Anadromous Fish									
Construction and rehabilitation									
Line item construction	---	8,610	18,407	17,390	22,620	+22,620	+14,010	+4,213	+4,690
Anadromous fish grants	2,000	---	1,500	1,500	1,500	-500	+1,500	---	---
Striped bass study	---	---	500	500	500	+500	+500	---	---
Capital development & maintenance management	600	47	647	47	447	-153	+400	-200	+400
FERS reestimate	---	---	---	---	-5	-5	-5	-5	-5
Total, Construction and Anadromous Fish	2,600	8,657	21,054	19,437	25,062	+22,462	+16,405	+4,008	+5,085
Migratory Bird Conservation Account									
Advance Appropriation	7,000	---	1,000	3,561	1,000	-6,000	+1,000	---	-2,561
Land Acquisition									
Fish and Wildlife Service:									
Acquisitions - Federal refuge lands	46,490	---	37,435	70,860	49,880	+3,390	+49,880	+12,445	-20,980
Acquisition Management	1,750	1,639	1,639	2,000	1,889	+139	+250	+250	-111
FERS reestimate	---	---	---	---	-15	-15	-15	-15	-15
Total, Land Acquisition	48,240	1,639	39,074	72,860	51,754	+3,514	+50,115	+12,680	-21,106

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
National Wildlife Refuge Fund									
Payments in Lieu of Taxes	5,645	5,645	5,645	5,645	5,645	---	---	---	---
Total, Fish and Wildlife Service	387,123	318,144	402,297	444,362	426,055	+38,932	+107,911	+23,758	-18,847
NATIONAL PARK SERVICE									
Operation of the National Park System									
Park Management									
Management of park areas	62,685	65,522	66,263	69,199	68,950	+6,265	+3,428	+2,687	-249
Concessions management	3,548	5,112	5,112	5,112	5,112	+1,564	---	---	---
Interpretation and Visitor Services	68,054	73,039	73,103	73,059	73,123	+5,069	+84	+20	+64
Visitor protection and safety	60,365	66,983	65,483	67,068	66,568	+6,203	-415	+1,085	-500
United States Park Police	32,073	35,968	34,493	35,968	35,243	+3,170	-725	+750	-725
Maintenance	243,360	254,910	257,350	258,910	258,350	+14,990	+3,440	+1,000	-560
Resources management	100,908	106,825	109,813	107,200	109,813	+8,905	+2,988	---	+2,613
Information publications	3,400	3,954	3,454	3,954	3,704	+304	-250	+250	-250
International Park Affairs	791	446	814	695	695	-96	+249	-119	---
Volunteers-in-parks	500	1,000	500	1,000	750	+250	-250	+250	-250
Enhanced park operation	15,000	18,500	15,000	18,500	15,000	---	-3,500	---	-3,500
Subtotal, Park Management	590,684	632,259	631,385	640,665	637,308	+46,624	+5,049	+5,923	-3,357
Forest Fire Suppression and Presuppression	14,319	1,319	11,319	11,319	11,319	-3,000	+10,000	---	---
Park Recreation and Wilderness Planning									
Water resources	2,909	2,936	2,936	3,036	3,036	+127	+100	+100	---
General management plans	2,332	1,673	1,673	1,993	1,673	-659	---	---	-320
Subtotal, Park Recreation & Wilderness Planning	5,241	4,609	4,609	5,029	4,709	-532	+100	+100	-320
Statutory or Contractual Aid for Other Activities									
Roosevelt Campobello International Park Commission	408	408	424	424	424	+16	+16	---	---
Ice Age National Scientific Reserve	573	573	573	573	573	---	---	---	---
Lowell Historic Preservation Canal Commission	537	569	569	569	569	+32	---	---	---
Mary McLeod Bethune NHS	199	199	199	199	199	---	---	---	---
Martin Luther King, Jr. Center	199	199	199	2,550	2,550	+2,351	+2,351	+2,351	---
Fisk University, Jubilee Hall	168	---	168	168	168	---	+168	---	---
James Garfield NHS	468	---	---	---	---	-468	---	---	---
Johnstown Flood Museum	398	---	---	---	---	-398	---	---	---
Harding Home and Tomb State Memorial	538	---	---	---	---	-538	---	---	---
Steamtown USA NHS	8,000	---	---	---	---	-8,000	---	---	---
Blackstone River Corridor	---	---	350	350	350	+350	+350	---	---
William McKinley Monument	---	---	925	---	925	+925	+925	---	+925
Balboa Park	---	---	200	---	200	+200	+200	---	+200
William Howard Taft home	419	---	---	---	---	-419	---	---	---
Native Hawaiian Culture and Arts Department	200	---	---	---	---	-200	---	---	---
Subtotal, Statutory or Contractual Aid	12,107	1,948	3,607	4,833	5,958	-6,149	+4,010	+2,351	+1,125
General Administration									
Central office	5,820	6,173	6,173	6,173	6,173	+353	---	---	---
Regional offices	14,993	17,640	17,640	17,640	17,640	+2,647	---	---	---
Automatic data processing	5,443	5,742	5,742	5,742	5,742	+299	---	---	---
Service wide administrative support	7,954	8,408	8,408	8,408	8,408	+454	---	---	---
General services	390	390	390	390	390	---	---	---	---
Employee compensation payment	5,381	5,720	5,720	5,720	5,720	+339	---	---	---

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Unemployment compensation for federal employees.....	7,892	7,892	7,892	7,892	7,892	---	---	---	---
GSA space rental.....	13,500	14,000	14,000	14,000	14,000	+500	---	---	---
Executive direction.....	6,544	6,883	6,383	6,883	6,543	-1	-340	+160	-340
Public Affairs.....	1,753	1,861	1,861	1,861	1,861	+108	---	---	---
FERS reestimate.....	---	---	---	-2,449	-2,864	-2,864	-2,864	-2,864	-415
Subtotal, General Administration.....	69,670	74,709	74,209	72,260	71,505	+1,835	-3,204	-2,704	-755
Pay and retirement supplemental.....	13,960	---	---	---	---	-13,960	---	---	---
Temporary Fee Legislation.....	-54,000	---	---	-34,000	-35,000	+19,000	-35,000	-35,000	-1,000
Transfer from Planning, Development and Operation of Facilities.....	-15,158	---	---	---	---	+15,158	---	---	---
(Rescission).....	---	---	---	-5,500	---	---	---	---	+5,500
Total, Operation of the National Park System....	636,823	714,844	725,129	694,606	695,799	+58,976	-19,045	-29,330	+1,193
National Recreation and Preservation									
Recreation Programs.....	600	301	617	617	617	+17	+316	---	---
Natural Programs.....	1,582	571	2,471	2,471	2,471	+889	+1,900	---	---
National Register.....	6,584	7,425	7,695	7,925	7,945	+1,361	+520	+250	+20
Environmental and Compliance Review.....	383	427	427	427	427	+44	---	---	---
Grant administration.....	1,479	1,593	1,543	1,543	1,543	+64	-50	---	---
FERS reestimate.....	---	---	---	---	-68	-68	-68	-68	-68
Pay and retirement supplemental.....	300	---	---	---	---	-300	---	---	---
Total, National Recreation and Preservation.....	10,928	10,317	12,753	12,983	12,935	+2,007	+2,618	+182	-48
Historic Preservation Fund									
Grants-in-aid.....	20,000	---	20,750	28,750	23,750	+3,750	+23,750	+3,000	-5,000
National Trust for Historic Preservation.....	4,250	---	4,250	5,300	4,500	+250	+4,500	+250	-800
Total, Historic Preservation Fund.....	24,250	---	25,000	34,050	28,250	+4,000	+28,250	+3,250	-5,800
Urban Park Recreation Fund									
Base program (rescission).....	---	---	---	-2,800	-1,900	-1,900	-1,900	-1,900	+900
Construction									
Buildings and Utilities									
Emergency and Unscheduled (Lump Sum) Projects.....	3,000	2,000	3,000	3,000	2,000	-1,000	---	-1,000	-1,000
Advance Planning.....	4,600	3,464	4,600	4,839	4,600	---	+1,136	---	-239
Project Planning.....	8,500	6,208	8,325	8,261	9,325	+825	+3,117	+1,000	+1,064
Line Item Construction Projects.....	71,995	19,318	70,131	65,231	77,284	+5,289	+57,966	+7,153	+12,053
Visitors facilities fund.....	---	(4,700)	(4,700)	(4,700)	(4,700)	(+4,700)	---	---	---
FERS reestimate.....	---	---	---	---	-192	-192	-192	-192	-192
Total, Construction.....	88,095	30,990	86,056	81,331	93,017	+4,922	+62,027	+6,961	+11,686
Federal Highway Administration									
Federal-aid highways (liquidation of contract authority) (trust fund).....	(12,500)	---	(31,000)	(31,000)	(31,000)	(+18,500)	(+31,000)	---	---
Land Acquisition and State Assistance									
Assistance to States									
Matching grants.....	32,700	---	---	31,567	16,567	-16,133	+16,567	+16,567	-15,000
Administrative expenses.....	2,270	3,433	3,433	3,433	3,433	+1,163	---	---	---

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
National Park Service									
Acquisitions	70,160	6,100	38,500	34,725	34,325	-35,835	+28,225	-4,175	-400
Acquisition management	5,000	6,498	6,498	6,598	6,498	+1,498	---	---	-100
FERS reestimate	---	---	---	---	-74	-74	-74	-74	-74
Total, Land acquisition and state assistance	110,130	16,031	48,431	76,323	60,749	-49,381	+44,718	+12,318	-15,574
Land and Water Conservation Fund									
(Rescission of contract authority)	-30,000	---	-30,000	-30,000	-30,000	---	-30,000	---	---
John F. Kennedy Center for the Performing Arts									
Base program	4,771	4,920	4,920	4,920	4,920	+149	---	---	---
FERS reestimate	---	---	---	---	-16	-16	-16	-16	-16
Total, JFK Center for the Performing Arts	4,771	4,920	4,920	4,920	4,904	+133	-16	-16	-16
Illinois and Michigan Canal National Heritage Corridor Commission									
Base program	250	---	250	250	250	---	+250	---	---
Jefferson National Expansion Memorial Commission									
Base program	75	---	---	---	---	-75	---	---	---
GEOLOGICAL SURVEY									
Surveys, Investigations, and Research									
National Mapping, Geography and Surveys									
Primary mapping and revision	33,266	36,582	36,582	36,582	36,582	+3,316	---	---	---
Digital cartography	13,499	13,220	14,220	13,220	13,970	+471	+750	-250	+750
Small intermediate and special mapping	13,798	13,218	13,968	14,568	13,593	-205	+375	-375	-975
Advanced cartographic systems	12,206	13,396	13,396	13,396	13,396	+1,190	---	---	---
Earth resources observation system	8,888	7,148	8,148	9,148	8,648	-240	+1,500	+500	-500
Cartographic and geographic information	3,371	3,851	3,851	3,851	3,851	+480	---	---	---
Side looking airborne radar	1,500	---	1,500	1,500	1,500	---	+1,500	---	---
Subtotal, National Mapping, Geography & Surveys	86,528	87,415	91,665	92,265	91,540	+5,012	+4,125	-125	-725
Geologic and Mineral Resource Surveys and Mapping									
Earthquake hazards reduction	35,059	32,540	35,040	34,540	35,040	-19	+2,500	---	+500
Volcano Hazards	10,667	11,098	11,098	11,848	11,598	+931	+500	+500	-250
Landslide hazards	2,058	2,225	2,225	2,225	2,225	+167	---	---	---
National geologic mapping	16,362	17,084	18,084	17,584	17,834	+1,472	+750	-250	+250
Deep continental studies	3,000	3,085	3,085	3,085	3,085	+85	---	---	---
Geomagnetism	2,129	1,763	1,763	2,263	1,763	-366	---	---	-500
Climate change	992	1,046	1,046	1,046	1,046	+54	---	---	---
Coastal erosion	1,500	---	3,000	2,000	3,500	+2,000	+3,500	+500	+1,500
Offshore geologic surveys	24,428	24,204	25,704	24,204	25,204	+776	+1,000	-500	+1,000
Mineral resource surveys	44,033	45,104	47,104	47,104	47,104	+3,071	+2,000	---	---
Energy geologic surveys	25,772	26,675	28,375	28,425	28,925	+3,153	+2,250	+550	+500
Subtotal, Geologic & Mineral Surveys & Mapping	166,000	164,824	176,524	174,324	177,324	+11,324	+12,500	+800	+3,000
Water Resources Investigations									
Federal Program	66,078	67,690	69,940	73,640	72,590	+6,512	+4,900	+2,650	-1,050
Water resources research institutes	11,258	7,242	10,852	11,336	10,852	-406	+3,610	---	-484
Federal-State program	52,835	58,028	60,364	60,364	60,664	+7,829	+2,636	+300	+300
National water quality assessment	7,000	4,249	7,249	7,249	7,249	+249	+3,000	---	---
Subtotal, Water Resources Investigations	137,171	137,209	148,405	152,589	151,355	+14,184	+14,146	+2,950	-1,234

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
General Administration	16,540	14,514	14,514	14,514	14,514	-2,026	---	---	---
Facilities	15,023	16,216	16,216	16,216	16,216	+1,193	---	---	---
Pay and retirement supplemental	10,278	---	---	---	---	-10,278	---	---	---
FERS reestimate	---	---	---	---	-3,202	-3,202	-3,202	-3,202	-3,202
Total, Geological Survey	431,540	420,178	447,324	449,908	447,747	+16,207	+27,569	+423	-2,161
MINERALS MANAGEMENT SERVICE									
Leasing and Royalty Management									
OCS Lands									
Leasing and environmental program	38,632	39,319	39,319	42,023	40,219	+1,587	+900	+900	-1,804
Resource evaluation	26,212	23,846	23,846	23,846	23,846	-2,366	---	---	---
Regulatory program	27,952	29,623	29,623	29,623	29,623	+1,671	---	---	---
Subtotal, OCS Lands	92,796	92,788	92,788	95,492	93,688	+892	+900	+900	-1,804
Royalty Management									
Mineral Revenue Collection (onshore royalty)	14,652	15,931	15,931	15,931	15,931	+1,279	---	---	---
Mineral Revenue Compliance (offshore royalty)	13,626	15,020	15,770	15,020	15,020	+1,394	---	-750	---
Systems development and maintenance	17,426	19,228	19,228	19,228	19,228	+1,802	---	---	---
Subtotal, Royalty Management	45,704	50,179	50,929	50,179	50,179	+4,475	---	-750	---
General administration									
Executive direction	3,153	3,545	3,545	3,545	3,545	+392	---	---	---
Administration operations	9,107	10,057	10,057	10,057	10,057	+950	---	---	---
General support services	10,737	11,994	11,994	11,994	11,994	+1,257	---	---	---
Subtotal, General administration	22,997	25,596	25,596	25,596	25,596	+2,599	---	---	---
FERS reestimate	---	---	---	---	-746	-746	-746	-746	-746
Total, Leasing and Royalty Management	161,497	168,563	169,313	171,267	168,717	+7,220	+154	-596	-2,550
Payments to States from receipts under Mineral Leasing	---	750	---	---	---	---	-750	---	---
Total, Minerals Management Service	161,497	169,313	169,313	171,267	168,717	+7,220	-596	-596	-2,550
BUREAU OF MINES									
Mines and Minerals									
Minerals Information and Analysis									
Minerals information	9,856	11,021	10,521	11,021	10,871	+1,015	-150	+350	-150
Mineral data analysis	18,214	18,031	18,031	19,531	19,281	+1,067	+1,250	+1,250	-250
Subtotal, Minerals Information and Analysis	28,070	29,052	28,552	30,552	30,152	+2,082	+1,100	+1,600	-400
Minerals Research									
Health and safety technology	34,921	29,315	36,615	39,315	37,465	+2,544	+8,150	+850	-1,850
Mining technology	17,544	12,733	16,883	26,783	20,433	+2,889	+7,700	+3,550	-6,350
Minerals and materials technology	30,665	28,761	29,361	31,361	30,361	-304	+1,600	+1,000	-1,000
Subtotal, Minerals Research	83,130	70,809	82,859	97,459	88,259	+5,129	+17,450	+5,400	-9,200
Mineral institutes	7,612	---	3,004	8,812	8,812	+1,200	+8,812	+5,808	---
General administration	19,350	18,769	18,312	18,769	19,262	-88	+493	+950	+493
Facilities	---	---	---	2,800	700	+700	+700	+700	-2,100

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Substance abuse/alcohol programs	5,400	2,400	2,400	2,400	2,400	-3,000	---	---	---
Subtotal, Education	272,180	236,031	239,670	240,024	239,270	-32,910	+3,239	-400	-754
Indian Services									
Tribal government services	32,656	5,692	8,992	9,192	8,992	-23,664	+3,300	---	-200
Social services	114,301	90,516	93,016	93,216	93,216	-21,085	+2,700	+200	---
Law enforcement	53,413	3,177	4,427	4,542	4,292	-49,121	+1,115	-135	-250
Self-determination services	21,624	50,682	49,682	57,357	52,682	+31,058	+2,000	+3,000	-4,675
Employment development	26,182	2,436	2,276	3,170	2,476	-23,706	+40	+200	-694
Tribe/Agency operations	---	146,901	151,626	158,460	153,781	+153,781	+6,880	+2,155	-4,679
Subtotal, Indian Services	248,176	299,404	310,019	325,937	315,439	+67,263	+16,035	+5,420	-10,498
Navajo-Hopi settlement program	2,431	1,971	1,971	1,971	1,971	-460	---	---	---
Economic Development and Employment Programs									
Business enterprise development	14,296	13,146	10,071	11,771	10,571	-3,725	-2,575	+500	-1,200
Road maintenance	23,157	767	1,767	767	1,267	-21,890	+500	-500	+500
Tribe/Agency operations	---	25,797	27,797	27,797	27,797	+27,797	+2,000	---	---
Subtotal, Economic Development & Employment	37,453	39,710	39,635	40,335	39,635	+2,182	-75	---	-700
Natural Resources Development									
Natural resources, general	2,630	1,888	1,888	1,888	1,888	-742	---	---	---
Agriculture	22,820	3,506	3,856	4,471	4,361	-18,459	+855	+505	-110
Forestry	33,304	6,631	12,498	9,181	12,498	-20,806	+5,867	---	+3,317
Water resources	11,012	467	9,467	9,467	9,467	-1,545	+9,000	---	---
Wildlife and parks	29,582	10,301	14,832	13,324	14,540	-15,042	+4,239	-292	+1,216
Fire suppression	25,200	---	25,000	25,000	25,000	-200	+25,000	---	---
Minerals and mining	10,485	6,836	7,886	7,119	7,886	-2,599	+1,050	---	+767
Irrigation and power	7,587	7,618	8,018	7,618	8,018	+431	+400	---	+400
Tribe/Agency operations	---	57,062	62,200	63,002	62,575	+62,575	+5,513	+375	-427
Subtotal, Natural Resources Development	142,620	94,309	145,645	141,070	146,233	+3,613	+51,924	+588	+5,163
Trust Responsibilities									
Rights protection	17,815	18,849	11,349	13,499	12,749	-5,066	-6,100	+1,400	-750
Real estate and financial trust services	32,312	19,513	17,923	18,226	17,848	-14,464	-1,665	-75	-378
Tribe/Agency operations	---	24,978	24,978	24,978	24,978	+24,978	---	---	---
Subtotal, Trust Responsibilities	50,127	63,340	54,250	56,703	55,575	+5,448	-7,765	+1,325	-1,128
Facilities Management	89,845	80,907	82,367	80,907	82,367	-7,478	+1,460	---	+1,460
General administration									
Management and administration	49,726	38,194	37,580	37,427	37,603	-12,123	-591	+23	+176
ADP services	17,551	17,731	16,931	16,393	16,831	-720	-900	-100	+438
Program management	5,848	6,127	5,927	6,047	6,047	+199	-80	+120	---
Employee compensation payments	7,538	12,131	12,131	12,131	12,131	+4,593	---	---	---
Consolidated training program	840	840	840	840	840	---	---	---	---
Tribe/Agency operations	---	19,486	19,486	19,686	19,486	+19,486	---	---	-200
Subtotal, General administration	81,503	94,509	92,895	92,524	92,938	+11,435	-1,571	+43	+414
Pay and retirement supplemental	14,265	---	---	---	---	-14,265	---	---	---
FERS reestimate	---	---	---	---	-2,672	-2,672	-2,672	-2,672	-2,672
Total, Operation of Indian Programs	938,600	910,181	966,452	979,471	970,756	+32,156	+60,575	+4,304	-8,715

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Construction									
Buildings and utilities	48,110	32,360	33,884	38,996	41,160	-6,950	+8,800	+7,276	+2,164
Fish hatcheries	---	---	2,800	---	1,500	+1,500	+1,500	-1,300	+1,500
Irrigation systems	17,885	8,194	14,429	13,534	15,524	-2,361	+7,330	+1,095	+1,990
Housing	22,606	17,340	22,854	10,000	22,854	+248	+5,514	---	+12,854
Land Acquisition	---	---	---	3,250	2,250	+2,250	+2,250	+2,250	-1,000
FERS reestimate	---	---	---	---	-63	-63	-63	-63	-63
Total, Construction	88,601	57,894	73,967	65,780	83,225	-5,376	+25,331	+9,258	+17,445
Road Construction									
Base Program	---	---	1,000	---	1,000	+1,000	+1,000	---	+1,000
White Earth Trust Fund	6,600	---	---	---	---	-6,600	---	---	---
Miscellaneous Payments to Indians									
White Earth Land Settlement Act (Admin)	---	788	500	500	500	+500	-288	---	---
Old Age Assistance	---	2,140	2,140	2,140	2,140	+2,140	---	---	---
Payment of income from Chilcco Indian Reserve	---	---	---	994	---	---	---	---	-994
Payment to Tohono O'Odham Nation	---	10,700	10,700	10,700	10,700	+10,700	---	---	---
Total, Miscellaneous Payments to Indians	---	13,628	13,340	14,334	13,340	+13,340	-288	---	-994
Trust Funds									
Definite	1,000	1,000	1,000	1,000	1,000	---	---	---	---
Revolving Fund for Loans									
Indian direct loan subsidies	---	2,912	---	---	---	---	-2,912	---	---
Limitation on direct loans	(16,320)	(13,000)	---	---	---	(-16,320)	(-13,000)	---	---
Indian Loan Guaranty and Insurance Fund									
Base program	2,452	2,727	3,085	3,085	3,085	+633	+358	---	---
Indian guaranteed loan subsidies	---	9,367	---	---	---	---	-9,367	---	---
Limitation on guaranteed loans	---	(33,500)	---	---	---	---	(-33,500)	---	---
Total, Indian Loan Guaranty and Insurance Fund	2,452	12,094	3,085	3,085	3,085	+633	-9,009	---	---
Total, Bureau of Indian Affairs	1,037,253	997,709	1,058,844	1,063,670	1,072,406	+35,153	+74,697	+13,562	+8,736
TERRITORIAL AFFAIRS									
Administration of Territories									
Guam									
Construction grants	5,500	1,100	1,100	6,500	4,500	-1,000	+3,400	+3,400	-2,000
American Samoa									
Operations grants	20,776	15,400	20,776	20,776	20,776	---	+5,376	---	---
Construction grants	4,313	1,950	4,450	3,200	3,450	-863	+1,500	-1,000	+250
Subtotal, American Samoa	25,089	17,350	25,226	23,976	24,226	-863	+6,876	-1,000	+250
Northern Marianas									
Covenant grants	35,344	34,360	34,360	34,360	34,360	-984	---	---	---
Subtotal, Northern Marianas	35,344	34,360	34,360	34,360	34,360	-984	---	---	---
Virgin Islands									
Grants	---	---	2,500	2,500	2,500	+2,500	+2,500	---	---
Construction grants	2,900	2,400	2,400	2,400	2,400	-500	---	---	---
Subtotal, Virgin Islands	2,900	2,400	4,900	4,900	4,900	+2,000	+2,500	---	---

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
A/S Territorial and International Affairs	508	547	547	547	547	+39	---	---	---
A/S Policy, Budget & Administration	825	760	760	760	760	-65	---	---	---
Subtotal, Program Direction and Coordination	3,998	4,581	4,192	4,192	4,192	+194	-389	---	---
Administration									
Environmental Project Review	1,404	2,269	1,523	2,023	2,023	+619	-246	+500	---
Acquisition & Property Management	1,264	1,372	1,372	1,372	1,372	+108	---	---	---
Office of personnel	1,617	1,652	1,652	1,652	1,652	+35	---	---	---
Administrative Services	1,032	1,332	1,114	1,114	1,114	+82	-218	---	---
Library	---	1,641	1,364	1,392	1,364	+1,364	-277	---	-28
Information Resources Management	4,450	3,107	2,910	2,959	2,910	-1,540	-197	---	-49
Management Analysis	---	416	336	336	336	+336	-80	---	---
Policy Analysis	1,950	2,115	1,637	2,115	1,876	-74	-239	+239	-239
Office of Budget	1,404	1,637	1,520	1,450	1,520	+116	-117	---	+70
Budget Execution	---	379	---	---	---	---	-379	---	---
Financial management	954	1,125	1,037	1,125	1,125	+171	---	+88	---
Subtotal, Administration	14,075	17,045	14,465	15,538	15,292	+1,217	-1,753	+827	-246
Hearings and Appeals	5,200	5,983	5,633	5,866	5,866	+666	-117	+233	---
Aircraft Services	1,658	1,774	1,774	1,774	1,774	+116	---	---	---
Central Services	12,440	15,337	14,105	14,902	14,902	+2,462	-435	+797	---
Pay and retirement supplemental	375	---	---	---	---	-375	---	---	---
FERS reestimate	---	---	---	---	-241	-241	-241	-241	-241
Total, Office of the Secretary	43,191	50,976	45,849	48,237	47,519	+4,328	-3,457	+1,670	-718
Office of the Solicitor									
Legal Services	17,572	21,360	19,675	19,848	19,748	+2,176	-1,612	+73	-100
General Administration	3,308	3,434	3,434	3,434	3,434	+126	---	---	---
Pay and retirement supplemental	400	---	---	---	---	-400	---	---	---
FERS reestimate	---	---	---	---	-129	-129	-129	-129	-129
Total, Office of the Solicitor	21,280	24,794	23,109	23,282	23,053	+1,773	-1,741	-56	-229
Office of the Inspector General									
Audit	10,736	12,120	11,803	11,961	11,961	+1,225	-159	+158	---
Investigations	2,430	2,714	2,641	2,641	2,641	+211	-73	---	---
Administration	3,134	3,256	3,256	3,256	3,256	+122	---	---	---
Pay and retirement supplemental	425	---	---	---	---	-425	---	---	---
FERS reestimate	---	---	---	---	-101	-101	-101	-101	-101
Total, Office of the Inspector General	16,725	18,090	17,700	17,858	17,757	+1,032	-333	+57	-101
Construction Management									
Salaries and Expenses	684	---	2,500	718	1,800	+1,116	+1,800	-700	+1,082
Total, Secretarial Offices	81,880	93,860	89,158	90,095	90,129	+8,249	-3,731	+971	+34
Grand Total, Department of the Interior	4,212,935	3,875,994	4,315,243	4,391,113	4,361,330	+148,395	+485,336	+46,087	-29,783

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Territorial Administration									
Office of Territorial Affairs	2,723	2,962	2,962	2,962	2,962	+239	---	---	---
Technical Assistance	4,700	2,200	4,700	5,240	5,240	+540	+3,040	+540	---
Disaster contingency fund	---	---	---	500	500	+500	+500	+500	---
Guam Power Authority Loan Assistance	1,968	1,561	1,561	1,561	1,561	-407	---	---	---
FERS reestimate	---	---	---	---	-14	-14	-14	-14	-14
Subtotal, Territorial Administration	9,391	6,723	9,223	10,263	10,249	+858	+3,526	+1,026	-14
Total, Administration of Territories	78,224	61,933	74,809	79,999	78,235	+11	+16,302	+3,426	-1,764
Trust Territory of the Pacific Islands									
Trust Territory operations	5,200	1,433	14,433	1,433	9,433	+4,233	+8,000	-5,000	+8,000
Federated States of Micronesia	38,763	---	---	---	---	-38,763	---	---	---
Republic of the Marshall Islands	10,940	---	---	---	---	-10,940	---	---	---
Republic of Palau Operations	10,084	10,787	11,157	11,157	11,157	+1,073	+370	---	---
Subtotal, Operations	64,987	12,220	25,590	12,590	20,590	-44,397	+8,370	-5,000	+8,000
Construction									
Capital Improvements	---	---	5,850	5,400	5,400	+5,400	+5,400	-450	---
Capitol Relocations	---	2,600	2,600	2,600	2,600	+2,600	---	---	---
Subtotal, Construction	---	2,600	8,450	8,000	8,000	+8,000	+5,400	-450	---
Enewetak support	900	---	---	---	---	-900	---	---	---
Bikini Atoll Rehabilitation Committee	1,500	---	1,000	1,000	1,000	-500	+1,000	---	---
Micronesian War Claims	---	---	24,350	---	12,350	+12,350	+12,350	-12,000	+12,350
Total, Trust Territory of the Pacific Islands	67,387	14,820	59,390	21,590	41,940	-25,447	+27,120	-17,450	+20,350
Compact of Free Association									
Compact of Free Association	---	27,920	27,320	27,320	27,320	+27,320	-600	---	---
Enewetak support	---	---	1,100	1,100	1,100	+1,100	+1,100	---	---
Enjebi Trust Fund	2,250	---	1,500	2,500	2,500	+250	+2,500	---	---
Bikini resettlement	---	---	2,300	2,300	2,300	+2,300	+2,300	---	---
Jaluit Atoll	---	---	---	400	400	+400	+400	+400	---
Subtotal, Compact of Free Association	2,250	27,920	33,220	33,620	33,620	+31,370	+5,700	+400	---
Total, Territorial Affairs	147,861	104,673	167,419	135,209	153,795	+5,934	+49,122	-13,624	+18,586
DEPARTMENTAL OFFICES									
Office of the Secretary									
Departmental Direction									
Secretary's immediate Office	1,586	2,136	1,722	1,899	1,722	+136	-414	---	-177
Executive Secretariat	374	515	407	515	461	+87	-54	+54	-54
Cong. & Legis. Affairs	1,046	1,188	1,134	1,134	1,134	+88	-54	---	---
Equal Opportunity	1,274	1,155	1,155	1,155	1,155	-119	---	---	---
Public Affairs	784	848	848	848	848	+64	---	---	---
Small & Disadvantaged Business Utilization	381	414	414	414	414	+33	---	---	---
Subtotal, Departmental Direction	5,445	6,256	5,680	5,965	5,734	+289	-522	+54	-231
Program Direction and Coordination									
A/S Water and Science	625	801	676	676	676	+51	-125	---	---
A/S Land and Minerals Management	840	939	911	911	911	+71	-28	---	---
A/S Fish and Wildlife and Parks	600	762	651	651	651	+51	-111	---	---
A/S Indian Affairs	600	772	647	647	647	+47	-125	---	---

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
TITLE II - RELATED AGENCIES									
DEPARTMENT OF AGRICULTURE									
FOREST SERVICE									
Forest Research									
Fire and atmospheric science	8,046	8,336	9,196	8,131	8,981	+935	+645	-215	+850
Forest insect and disease	22,495	21,028	22,907	23,146	22,636	+141	+1,608	-271	-510
Forest inventory and analysis	17,322	16,805	17,863	17,392	17,741	+419	+936	-122	+349
Renewable resource economics	4,370	4,648	5,048	5,098	4,998	+628	+350	-50	-100
Trees and timber management	23,302	23,681	26,208	26,546	26,658	+3,356	+2,977	+450	+112
Forest watershed managment and rehabilitation	16,110	15,628	17,070	16,303	16,745	+635	+1,117	-325	+442
Wildlife, range and fish habitat	11,491	11,459	12,986	13,150	12,615	+1,124	+1,156	-371	-535
Forest recreation	2,377	2,427	2,814	2,652	2,721	+344	+294	-93	+69
Forest products and harvesting	18,364	18,200	19,578	20,192	19,942	+1,578	+1,742	+364	-250
Competitive grants	6,000	---	4,000	4,000	3,000	-3,000	+3,000	-1,000	-1,000
Pay and retirement supplemental	2,844	---	---	---	---	-2,844	---	---	---
FERS reestimate	---	---	---	---	-527	-527	-527	-527	-527
Total, Forest Research	132,721	122,212	137,670	136,610	135,510	+2,789	+13,298	-2,160	-1,100
State and Private Forestry									
Forest Pest Management									
Federal lands	27,650	25,779	30,779	30,039	28,539	+1,889	+3,760	-1,240	-500
Cooperative lands	10,376	2,077	8,577	12,077	12,577	+1,201	+9,500	+3,000	-500
Subtotal, Forest pest management	38,026	27,856	39,356	42,116	41,116	+3,090	+13,260	+1,760	-1,000
Fire protection	13,600	4,778	13,778	13,778	13,778	+178	+9,000	---	---
Forest Management and Utilization									
Forest resource management	5,200	---	5,000	5,000	5,000	-200	+5,000	---	---
Wood utilization	1,000	---	1,000	5,000	2,000	+1,000	+2,000	+1,000	-3,000
Seedlings, nursery and tree improvement	1,800	---	2,000	1,800	1,800	---	+1,800	-200	---
Urban forestry	1,925	---	2,000	1,925	2,000	+75	+2,000	---	+75
Subtotal, Forest Management and Utilization	9,925	---	10,000	13,725	10,800	+875	+10,800	+800	-2,925
Special Projects									
Boundary Waters Canoe Area	2,800	2,800	3,000	2,800	2,800	---	---	-200	---
Gifford Pinchot Institute	200	---	200	---	200	---	+200	---	+200
Lake Tahoe	1,400	---	1,400	1,400	1,400	---	+1,400	---	---
Cache La Poudre River	---	---	---	75	75	+75	+75	+75	---
Grant to Kellogg, ID	---	---	---	---	6,400	+6,400	+6,400	+6,400	+6,400
Pay and retirement supplemental	603	---	---	---	---	-603	---	---	---
Subtotal, Special Projects	5,003	2,800	4,600	4,275	10,875	+5,872	+8,075	+6,275	+6,600
FERS reestimate	---	---	---	---	-100	-100	-100	-100	-100
Total, State and Private Forestry	66,554	35,434	67,734	73,894	76,469	+9,915	+41,035	+8,735	+2,575
National Forest System									
Minerals and General Land Activities									
Minerals	26,319	28,519	25,868	27,519	26,837	+518	-1,682	+969	-682
Real estate management	19,845	22,443	21,948	22,443	21,948	+2,103	-495	---	-495
Land Line Location	26,363	27,383	21,785	27,383	26,785	+422	-598	+5,000	-598
Maintenance of Facilities	14,735	16,005	17,625	16,005	16,625	+1,890	+620	-1,000	+620
Subtotal, Minerals & General Land Activities	87,262	94,350	87,226	93,350	92,195	+4,933	-2,155	+4,969	-1,155

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Resource Protection and Maintenance									
Fire protection	154,796	151,616	162,151	151,616	165,942	+11,146	+14,326	+3,791	+14,326
Fighting forest fires	125,000	1,000	125,000	125,000	125,000	---	+124,000	---	---
Cooperative law enforcement	6,660	5,696	9,669	9,907	9,669	+3,009	+3,973	---	-238
Road maintenance	61,770	65,792	54,657	97,875	83,740	+21,970	+17,948	+29,083	-14,135
Trail maintenance	11,000	11,526	20,026	25,026	20,026	+9,026	+8,500	---	-5,000
Subtotal, Resource Protection & Maintenance	359,226	235,630	371,503	409,424	404,377	+45,151	+168,747	+32,874	-5,047
Timber Sales									
Timber resource inventory	13,280	17,277	15,277	17,277	16,277	+2,997	-1,000	+1,000	-1,000
Silvicultural examination	20,870	28,200	25,800	28,200	26,800	+5,930	-1,400	+1,000	-1,400
Sales preparation	99,409	106,260	136,428	85,860	85,662	-13,747	-20,598	-50,766	-198
Harvest administration	50,580	59,459	57,112	59,459	58,112	+7,532	-1,347	+1,000	-1,347
Subtotal, Timber Sales	184,139	211,196	234,617	190,796	186,851	+2,712	-24,345	-47,766	-3,945
Reforestation and Stand Improvement									
Reforestation	47,511	30,337	30,321	53,037	47,021	-490	+16,684	+16,700	-6,016
Stand improvement	26,833	24,635	28,635	24,635	26,635	-198	+2,000	-2,000	+2,000
Nurseries	14,549	14,667	14,667	14,667	14,667	+118	---	---	---
Subtotal, Reforestation & Stand Improvement	88,893	69,639	73,623	92,339	88,323	-570	+18,684	+14,700	-4,016
Recreation Use									
Recreation management	90,824	42,360	91,263	95,193	97,478	+6,654	+55,118	+6,215	+2,285
Wilderness	10,030	9,637	12,637	12,637	12,637	+2,607	+3,000	---	---
Cultural resources	9,368	12,292	15,292	12,292	14,292	+4,924	+2,000	-1,000	+2,000
Subtotal, Recreation Use	110,222	64,289	119,192	120,122	124,407	+14,185	+60,118	+5,215	+4,285
Wildlife and Fish Habitat Management									
Wildlife and fisheries support	25,272	28,622	17,292	28,622	25,882	+610	-2,740	+8,590	-2,740
Habitat improvement	16,265	9,302	19,702	21,495	21,767	+5,502	+12,465	+2,065	+272
Subtotal, Wildlife & Fish Habitat Management	41,537	37,924	36,994	50,117	47,649	+6,112	+9,725	+10,655	-2,468
Range Management									
Grazing	24,355	24,822	24,858	24,822	25,822	+1,467	+1,000	+964	+1,000
Range improvements	769	738	1,738	1,738	1,738	+969	+1,000	---	---
Wild horse and burro management	275	261	287	287	287	+12	+26	---	---
Noxious weed control	1,400	1,058	1,058	1,558	1,558	+158	+500	+500	---
Subtotal, Range Management	26,799	26,879	27,941	28,405	29,405	+2,606	+2,526	+1,464	+1,000
Soil, Water and Air Management									
Soil, water and air operations	24,030	27,104	17,741	27,104	25,811	+1,781	-1,293	+8,070	-1,293
Soil and water resource improvements	3,125	2,000	3,300	3,336	3,300	+175	+1,300	---	-36
Soil and water resource inventories	6,065	4,825	6,325	6,225	6,325	+260	+1,500	---	+100
Subtotal, Soil, Water and Air Management	33,220	33,929	27,366	36,665	35,436	+2,216	+1,507	+8,070	-1,229
General Administration	256,996	272,581	269,944	272,581	269,944	+12,948	-2,637	---	-2,637
Reforestation trust fund transfer	-30,000	-30,000	-30,000	-30,000	-30,000	---	---	---	---
Pay and retirement supplemental	26,874	---	---	---	---	-26,874	---	---	---
FERS reestimate	---	---	---	---	-5,196	-5,196	-5,196	-5,196	-5,196
Total, National Forest System	1,185,168	1,016,417	1,218,406	1,263,799	1,243,391	+58,223	+226,974	+24,985	-20,408

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Construction									
Facilities	26,502	15,894	42,143	23,410	27,669	+1,167	+11,775	-14,474	+4,259
Roads and trails									
Direct road construction	228,803	198,625	144,543	178,085	172,503	-56,300	-26,122	+27,960	-5,582
Base Program, 1989	---	---	---	(166,000)	---	---	---	---	(-166,000)
Trail construction	7,431	7,024	14,228	14,024	14,698	+7,267	+7,674	+470	+674
Subtotal, Construction	262,736	221,543	200,914	215,519	214,870	-47,866	-6,673	+13,956	-649
Timber Receipts Transfer (transfer to General Fund)	(-78,029)	(-75,023)	(-75,023)	---	(-75,023)	(+3,006)	---	---	(-75,023)
Timber Purchaser Credits	---	(117,799)	---	(117,799)	---	---	(-117,799)	---	(-117,799)
(Rescission)	-30,000	---	---	---	---	+30,000	---	---	---
Pay and retirement supplemental	4,459	---	---	---	---	-4,459	---	---	---
FERS reestimate	---	---	---	---	-792	-792	-792	-792	-792
Total, Construction	237,195	221,543	200,914	215,519	214,078	-23,117	-7,465	+13,164	-1,441
Land Acquisition									
Forest Service									
Acquisitions	49,030	---	32,420	47,313	44,895	-4,135	+44,895	+12,475	-2,418
Acquisition Management	3,206	3,907	3,907	4,000	4,200	+994	+293	+293	+200
FERS reestimate	---	---	---	---	-19	-19	-19	-19	-19
Total, Land Acquisition	52,236	3,907	36,327	51,313	49,076	-3,160	+45,169	+12,749	-2,237
Timber Roads, Purchaser Election, Forest Service									
Base program (rescission)	---	---	---	-75,000	-75,000	-75,000	-75,000	-75,000	---
Timber Salvage Sales									
Base program	---	---	---	40,000	37,000	+37,000	+37,000	+37,000	-3,000
Operation and Maintenance of Recreation Facilities									
Base program	---	52,000	---	---	---	---	-52,000	---	---
Acquisition of Lands for National Forests, Special Acts									
Base Program	966	966	966	966	966	---	---	---	---
Acquisition of Lands to Complete Land Exchanges									
Base Program	895	990	990	990	990	+95	---	---	---
Range Betterment									
Base program	3,644	3,750	3,750	3,750	3,750	+106	---	---	---
Miscellaneous Trust Funds									
Miscellaneous trust fund	90	90	90	90	90	---	---	---	---
Total, Forest Service	1,679,469	1,457,309	1,666,847	1,711,931	1,686,320	+6,851	+229,011	+19,473	-25,611

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
DEPARTMENT OF ENERGY									
Clean Coal Technology Reserve									
Base program FY 1988	---	350,000	50,000	350,000	50,000	+50,000	-300,000	---	-300,000
Base program FY 1989	---	(500,000)	(200,000)	(500,000)	(525,000)	(+525,000)	(+25,000)	(+325,000)	(+25,000)
Base program FY 1990	---	(500,000)	(100,000)	---	---	---	(-500,000)	(-100,000)	---
Base program FY 1991	---	(500,000)	---	---	---	---	(-500,000)	---	---
Base program FY 1992	---	(500,000)	---	---	---	---	(-500,000)	---	---
Total, Clean Coal Technology Reserve	---	350,000	50,000	350,000	50,000	+50,000	-300,000	---	-300,000
Fossil Energy Research and Development									
Coal									
Control Technology and Coal Preparation									
Coal preparation and analysis	10,953	10,482	16,395	14,470	15,695	+4,742	+5,213	-700	+1,225
Flue gas cleanup	12,897	11,830	15,230	13,430	14,430	+1,533	+2,600	-800	+1,000
Gas stream cleanup	13,126	4,905	9,705	10,005	9,705	-3,421	+4,800	---	-300
Waste management technology	850	1,383	1,383	1,508	1,383	+533	---	---	-125
Subtotal, Control Technology & Coal Preparation	37,826	28,600	42,713	39,413	41,213	+3,387	+12,613	-1,500	+1,800
Advanced Research & Technology Development	32,387	25,300	31,810	41,650	31,960	-427	+6,660	+150	-9,690
Coal Liquefaction									
Advanced research	4,541	2,990	4,490	6,990	5,690	+1,149	+2,700	+1,200	-1,300
Direct Liquefaction	11,910	2,990	13,090	12,410	13,190	+1,280	+10,200	+100	+780
Indirect liquefaction	6,264	2,530	5,830	2,530	6,330	+66	+3,800	+500	+3,800
Support studies and engineering evaluations	1,392	990	990	990	990	-402	---	---	---
Subtotal, Coal Liquefaction	24,107	9,500	24,400	22,920	26,200	+2,093	+16,700	+1,800	+3,280
Combustion Systems									
Atmospheric fluidized beds	3,309	1,600	3,000	2,500	2,500	-809	+900	-500	---
Pressurized fluidized beds	5,837	6,626	7,326	7,826	7,326	+1,489	+700	---	-500
Advanced combustion technology	2,758	2,474	4,174	2,474	3,474	+716	+1,000	-700	+1,000
Alternate fuel utilization	3,238	3,300	3,682	3,682	3,682	+444	+382	---	---
EPA LIMB demonstration	---	5,000	5,000	5,000	5,000	+5,000	---	---	---
Subtotal, Combustion Systems	15,142	19,000	23,182	21,482	21,982	+6,840	+2,982	-1,200	+500
Fuel Cells									
Phosphoric acid systems	15,500	---	17,000	4,300	13,200	-2,300	+13,200	-3,800	+8,900
Molten carbonate systems	7,621	3,200	15,900	9,300	11,100	+3,479	+7,900	-4,800	+1,800
Advanced concepts	4,963	2,000	8,500	7,000	8,353	+3,390	+6,353	-147	+1,353
Subtotal, Fuel Cells	28,084	5,200	41,400	20,600	32,653	+4,569	+27,453	-8,747	+12,053
Heat engines	12,146	8,300	18,050	21,050	18,050	+5,904	+9,750	---	-3,000
Underground coal gasification	2,370	---	2,325	2,825	2,825	+455	+2,825	+500	---
Magnetohydrodynamics	26,500	---	35,000	35,000	35,000	+8,500	+35,000	---	---
Surface Coal Gasification									
Advanced research	2,806	640	2,740	2,840	2,740	-66	+2,100	---	-100
Systems for power production	14,382	1,500	11,930	10,630	11,230	-3,152	+9,730	-700	+600
Systems for industrial fuel gas production	1,235	1,000	1,400	1,400	1,400	+165	+400	---	---
Systems for synthesis gas production	1,742	1,160	2,005	2,005	2,005	+263	+845	---	---
Systems for co-products production	4,053	1,000	3,500	6,000	5,300	+1,247	+4,300	+1,800	-700
Great Plains coal gasification project	437	500	500	500	500	+63	---	---	---
Subtotal, Surface Coal Gasification	24,655	5,800	22,075	23,375	23,175	-1,480	+17,375	+1,100	-200
Subtotal, Coal	203,217	101,700	240,955	228,315	233,058	+29,841	+131,358	-7,897	+4,743

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Petroleum									
Advanced Process Technology									
Advanced exploratory research	3,290	1,583	3,066	3,416	3,066	-224	+1,483	---	-350
Arctic and offshore research	495	417	417	417	417	-78	---	---	---
Subtotal, Advanced Process Technology	3,785	2,000	3,483	3,833	3,483	-302	+1,483	---	-350
Enhanced Oil Recovery									
Heavy oil	2,350	2,100	3,700	3,700	3,700	+1,350	+1,600	---	---
Light oil	7,211	7,200	9,600	9,850	9,850	+2,639	+2,650	+250	---
Tar sands	1,650	---	1,100	2,700	2,000	+350	+2,000	+900	-700
Pilot Venture program	---	---	---	2,500	1,000	+1,000	+1,000	+1,000	-1,500
Subtotal, Enhanced Oil Recovery	11,211	9,300	14,400	18,750	16,550	+5,339	+7,250	+2,150	-2,200
Oil shale	10,967	955	8,380	11,455	9,500	-1,467	+8,545	+1,120	-1,955
Subtotal, Petroleum	25,963	12,255	26,263	34,038	29,533	+3,570	+17,278	+3,270	-4,505
Gas									
Unconventional gas recovery	8,009	1,600	10,100	12,350	10,400	+2,391	+8,800	+300	-1,950
Equipment not related to construction	1,500	480	480	480	480	-1,020	---	---	---
Fossil Energy Construction									
General plant projects	1,750	---	1,750	1,750	2,250	+500	+2,250	+500	+500
Headquarters program direction	14,283	9,835	13,765	13,765	13,765	-518	+3,930	---	---
Energy Technology Center program direction	46,952	25,400	42,096	42,096	42,096	-4,856	+16,696	---	---
Use of prior year funds	-3,107	-5,600	-6,205	-1,700	-6,205	-3,098	-605	---	-4,505
By transfer	-2,485	---	---	---	---	+2,485	---	---	---
Transfer from Energy Security Reserve	-437	-500	-500	-83,394	-20,894	-20,457	-20,394	-20,394	+62,500
Federal Inspector for the Alaska Gas Pipeline	221	230	230	230	230	+9	---	---	---
Cooperative R&D venture pool	---	4,500	---	(5,000)	---	---	-4,500	---	---
Employment floors	---	---	7,460	7,460	7,460	+7,460	+7,460	---	---
Facilities	---	---	9,000	36,000	15,500	+15,500	+15,500	+6,500	-20,500
FERS reestimate	---	---	---	---	-248	-248	-248	-248	-248
General reduction	---	---	---	---	-450	-450	-450	-450	-450
Total, Fossil Energy Research and Development	295,866	149,900	345,394	291,390	326,975	+31,109	+177,075	-18,419	+35,585
Naval Petroleum and Oil Shale Reserves									
Oil Reserves									
Naval petroleum reserves Nos. 1 & 2	130,340	150,255	150,255	150,255	150,255	+19,915	---	---	---
Naval petroleum reserve No. 3	22,614	21,740	21,740	21,740	21,740	-874	---	---	---
Program direction (headquarters)	5,374	5,495	5,495	5,495	5,495	+121	---	---	---
Subtotal, Oil Reserves	158,328	177,490	177,490	177,490	177,490	+19,162	---	---	---
Shale oil development program									
Shale reserves development	310	210	210	210	210	-100	---	---	---
Use of prior year balance	-36,461	-18,000	-18,000	-18,000	-18,000	+18,461	---	---	---
FERS reestimate	---	---	---	---	-37	-37	-37	-37	-37
Total, Naval Petroleum and Oil Shale Reserves	122,177	159,700	159,700	159,700	159,663	+37,486	-37	-37	-37
Energy Conservation									
Buildings & Community Systems									
Building systems	8,950	3,600	9,300	12,700	10,500	+1,550	+6,900	+1,200	-2,200
Community systems	2,900	---	2,900	4,200	3,700	+800	+3,700	+800	-500
Technology and consumer products	9,250	4,400	9,450	11,500	10,800	+1,550	+6,400	+1,350	-700
Analysis & technology transfer	2,000	1,000	2,000	4,600	3,000	+1,000	+2,000	+1,000	-1,600

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Appliance standards	2,000	1,800	1,800	1,800	1,800	-200	---	---	---
Federal energy management program	950	1,000	1,000	1,000	1,000	+50	---	---	---
Capital equipment	750	278	500	1,028	750	---	+472	+250	-278
Program direction	3,650	2,500	3,096	3,096	3,096	-554	+596	---	---
Subtotal, Buildings & Community Systems	30,450	14,578	30,046	39,924	34,646	+4,196	+20,068	+4,600	-5,278
Industrial									
Waste energy reduction	12,256	7,821	11,184	10,719	10,924	-1,332	+3,103	-260	+205
Process efficiency	13,300	4,600	11,000	16,200	13,600	+300	+9,000	+2,600	-2,600
Cogeneration	5,000	1,500	5,000	4,200	4,200	-800	+2,700	-800	---
Implementation and deployment	2,400	500	2,400	2,300	2,300	-100	+1,800	-100	---
Program direction	2,070	1,614	2,070	2,070	2,070	---	+456	---	---
Subtotal, Industrial	35,026	16,035	31,654	35,489	33,094	-1,932	+17,059	+1,440	-2,395
Transportation									
Vehicle Propulsion R&D	23,500	7,370	17,500	20,000	17,500	-6,000	+10,130	---	-2,500
Alternative fuels utilization	1,260	1,100	1,100	1,600	1,200	-60	+100	+100	-400
Electric/hybrid vehicle program	13,400	3,400	14,100	14,650	14,100	+700	+10,700	---	-550
Transportation systems utilization	700	400	1,100	1,100	1,100	+400	+700	---	---
Advanced materials development	13,000	6,657	13,000	14,157	13,500	+500	+6,843	+500	-657
High temperature materials lab	1,000	2,000	2,000	2,000	2,000	+1,000	---	---	---
Capital equipment	1,000	---	---	250	250	-750	+150	+250	---
Program direction	2,195	1,482	2,195	2,195	2,195	---	+713	---	---
Subtotal, Transportation	56,055	22,409	50,995	55,952	51,845	-4,210	+29,436	+850	-4,107
State/Local Programs									
Energy policy and conservation grants (EPCA)	9,519	---	9,519	9,519	9,519	---	+9,519	---	---
Energy extension service	3,968	---	3,968	3,968	3,968	---	+3,968	---	---
Schools & hospitals	25,156	---	25,156	25,156	25,156	---	+25,156	---	---
Weatherization	161,357	---	161,357	161,357	161,357	---	+161,357	---	---
Program Direction	13,500	6,000	12,140	12,215	12,140	-1,360	+6,140	---	-75
Subtotal, State/Local Programs	213,500	6,000	212,140	212,215	212,140	-1,360	+206,140	---	-75
Multi Sector									
Energy Conversion and Utilization Technology	20,358	15,800	21,000	20,475	20,825	+467	+5,025	-175	+350
Inventors program	5,000	3,290	5,250	4,640	4,890	-110	+1,600	-360	+250
National Appropriate Technology Assistance Service	1,400	700	1,400	1,500	1,400	---	+700	---	-100
Energy and Natural Resources Development Center	---	---	---	3,000	---	---	---	---	-3,000
Capital equipment	1,000	127	800	1,000	800	-200	+673	---	-200
Program direction	546	489	1,100	1,100	1,100	+554	+611	---	---
Subtotal, Multi Sector	28,304	20,406	29,550	31,715	29,015	+711	+8,609	-535	-2,700
Policy and management	1,862	1,662	1,862	1,662	1,662	-200	---	-200	---
Facilities	10,000	---	6,000	---	6,000	-4,000	+6,000	---	+6,000
Cooperative venture R & D pool	---	5,000	---	---	---	---	-5,000	---	---
Total, Energy Conservation	375,197	86,090	362,247	376,957	368,402	-6,795	+282,312	+6,155	-8,555
Offsetting Reductions									
Use of nonappropriated escrow funds	-134,067	---	-36,133	-36,133	-56,780	+77,287	-56,780	-20,647	-20,647
(Use of prior year balances)	-7,518	---	---	-2,000	-2,000	+5,518	-2,000	-2,000	---
FERS reestimate	---	---	---	---	-105	-105	-105	-105	-105
Total, Energy Conservation	233,612	86,090	326,114	338,824	309,517	+75,905	+223,427	-16,597	-29,307
Economic Regulation									
Compliance	13,685	13,105	13,105	13,105	13,105	-580	---	---	---
Fuels Conversion	2,000	587	587	587	587	-1,413	---	---	---
Natural gas and electricity operations	2,060	2,092	2,092	2,153	2,092	+32	---	---	-61

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Program administration	655	701	701	701	701	+46	---	---	---
Office of Hearings and Appeals	5,000	5,195	5,195	5,195	5,195	+195	---	---	---
FERS reestimate	---	---	---	---	-115	-115	-115	-115	-115
Total, Economic Regulation	23,400	21,680	21,680	21,741	21,565	-1,835	-115	-115	-176
Emergency Preparedness									
Emergency preparedness	6,044	6,206	6,206	6,206	6,206	+162	---	---	---
FERS reestimate	---	---	---	---	-34	-34	-34	-34	-34
Total, Emergency Preparedness	6,044	6,206	6,206	6,206	6,172	+128	-34	-34	-34
Strategic Petroleum Reserve									
Storage facilities development and operations	134,021	151,886	151,886	151,886	151,886	+17,865	---	---	---
Management	13,412	12,339	12,339	12,339	12,339	-1,073	---	---	---
FERS reestimate	---	---	---	---	-63	-63	-63	-63	-63
Total, Strategic Petroleum Reserve	147,433	164,225	164,225	164,225	164,162	+16,729	-63	-63	-63
SPR Petroleum Account									
Petroleum acquisition and transportation	---	842,934	603,744	806,934	438,744	+438,744	-404,190	-165,000	-368,190
Energy Information Administration									
National Energy Information System	49,978	51,374	51,374	51,374	51,374	+1,396	---	---	---
Policy and management	10,323	10,225	10,225	10,225	10,225	-98	---	---	---
FERS reestimate	---	---	---	---	-201	-201	-201	-201	-201
Total, Energy Information Administration	60,301	61,599	61,599	61,599	61,398	+1,097	-201	-201	-201
Total, Department of Energy	888,833	1,842,334	1,738,662	2,200,619	1,538,196	+649,363	-304,138	-200,466	-662,423
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
HEALTH RESOURCES AND SERVICES ADMINISTRATION									
Indian Health Services									
Clinical services									
IHS and tribal health delivery									
Hospital and health clinic programs	479,767	461,142	531,452	537,636	534,602	+54,835	+73,460	+3,150	-3,034
Dental health program	25,849	26,684	29,481	28,355	28,995	+3,146	+2,311	-486	+640
Mental health program	11,362	11,738	12,469	12,469	12,469	+1,107	+731	---	---
Alcoholism program	27,705	26,414	29,175	29,335	29,335	+1,630	+2,921	+160	---
Maintenance and repair	9,025	9,025	14,025	10,359	11,359	+2,334	+2,334	-2,666	+1,000
Contract care	183,713	146,090	198,482	198,482	198,482	+14,769	+52,392	---	---
Subtotal, Clinical services	737,421	681,093	815,084	816,636	815,242	+77,821	+134,149	+158	-1,394
Preventive health									
Sanitation	22,307	23,307	23,863	23,863	23,863	+1,556	+556	---	---
Public health nursing	12,887	13,659	14,129	14,129	14,129	+1,242	+470	---	---
Health education	3,883	4,008	4,288	4,500	4,400	+517	+392	+112	-100
Community health representative program	26,000	24,191	26,473	27,282	27,282	+1,282	+3,091	+809	---
Immunization	395	395	395	395	395	---	---	---	---
Subtotal, Preventative health	65,472	65,560	69,148	70,169	70,069	+4,597	+4,509	+921	-100
Urban health projects	9,000	8,000	9,424	9,674	9,624	+624	+1,624	+200	-50
Indian health manpower	7,018	4,646	7,646	7,646	7,646	+628	+3,000	---	---
Tribal management	2,688	749	2,749	3,329	3,104	+416	+2,355	+355	-225

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Direct operations	36,410	34,337	39,337	39,781	39,581	+3,171	+5,244	+244	-200
Indian health facilities	---	2,450	---	---	---	---	-2,450	---	---
FERS reestimate	---	---	---	---	-1,969	-1,969	-1,969	-1,969	-1,969
Medicare/Medicaid Reimbursements									
Hospital and clinic accreditation	(43,860)	(60,000)	(60,000)	(60,000)	(60,000)	(+16,140)	---	---	---
Subtotal	(43,860)	(60,000)	(60,000)	(60,000)	(60,000)	(+16,140)	---	---	---
Pay and retirement supplemental	11,686	---	---	---	---	-11,686	---	---	---
Total, Indian Health Services	869,695	796,835	943,388	947,235	943,297	+73,602	+146,462	-91	-3,938
Indian Health Facilities									
Hospitals									
New and Replacement	34,560	---	3,064	8,064	8,064	-26,496	+8,064	+5,000	---
Modernization and repair	2,450	---	7,450	7,625	7,625	+5,175	+7,625	+175	---
Subtotal, Hospitals	37,010	---	10,514	15,689	15,689	-21,321	+15,689	+5,175	---
Outpatient Care Facilities	7,585	---	10,316	10,416	10,416	+2,831	+10,416	+100	---
Sanitation Facilities	20,000	---	40,000	25,000	30,000	+10,000	+30,000	-10,000	+5,000
Hospital and health clinic programs									
Personnel Quarters	6,460	---	6,762	6,406	6,406	-54	+6,406	-356	---
Total, Indian Health Facilities	71,055	---	67,592	57,511	62,511	-8,544	+62,511	-5,081	+5,000
Total, Health Services Administration	940,750	796,835	1,010,980	1,004,746	1,005,808	+65,058	+208,973	-5,172	+1,062
DEPARTMENT OF EDUCATION									
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION									
Indian Education									
Part A-Payments to School Districts	47,200	47,200	49,170	49,170	49,170	+1,970	+1,970	---	---
Part B-Special Projects for Indian Students	11,568	11,568	11,707	11,707	11,707	+139	+139	---	---
Part C-Special Projects for Indian Adults	3,000	3,000	3,000	3,000	3,000	---	---	---	---
Administration	2,268	2,466	2,466	2,466	2,466	+198	---	---	---
FERS reestimate	---	---	---	---	-17	-17	-17	-17	-17
Total, Indian Education	64,036	64,234	66,343	66,343	66,326	+2,290	+2,092	-17	-17
OTHER RELATED AGENCIES									
NAVAJO/HOPI INDIAN RELOCATION COMMISSION									
Salaries and Expenses									
Operation of the Commission	22,335	21,490	25,270	25,270	25,270	+2,935	+3,780	---	---
SMITHSONIAN INSTITUTION									
Salaries and Expenses									
Research									
Assistant Secretary for Research	1,215	1,263	1,263	1,263	1,263	+48	---	---	---
Astrophysical Observatory	9,652	10,217	10,717	10,217	10,467	+815	+250	-250	+250
Tropical Research Institute	4,063	5,711	5,586	5,236	5,286	+1,223	-425	-300	+50

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Environmental Research Center	2,068	1,376	1,376	514	1,376	-692	---	---	+862
National Zoological Park	12,025	13,176	13,142	13,068	13,068	+1,043	-108	-74	---
Smithsonian Institution Archives	549	579	579	579	579	+30	---	---	---
Smithsonian Institution Libraries	4,764	5,039	5,039	5,139	5,089	+325	+50	+50	-50
Subtotal, Research	34,336	37,361	37,702	36,016	37,128	+2,792	-233	-574	+1,112
Museums									
Assistant Secretary for Museums	1,039	1,086	1,086	1,086	1,086	+47	---	---	---
National Museum of Natural History	22,036	23,919	24,174	23,674	23,968	+1,932	+49	-206	+294
National Air and Space Museum	8,652	9,037	9,109	9,037	9,037	+385	---	-72	---
National Museum of American History	13,109	13,648	13,648	13,648	13,648	+539	---	---	---
National Museum of American Art	4,851	5,050	5,050	5,050	5,050	+199	---	---	---
National Portrait Gallery	3,739	4,069	4,069	4,069	4,069	+330	---	---	---
Hirshhorn Museum and Sculpture Garden	3,204	3,351	3,351	3,351	3,351	+147	---	---	---
Center for Asian Art	3,891	3,961	3,961	3,936	3,936	+45	-25	-25	---
Archives of American Art	996	1,041	1,041	1,041	1,041	+45	---	---	---
Cooper-Hewitt Museum	1,031	1,076	1,126	1,076	1,076	+45	---	-50	---
National Museum of African Art	3,093	3,401	3,401	3,401	3,401	+308	---	---	---
Anacostia Neighborhood Museum	900	931	931	931	931	+31	---	---	---
Conservation Analytical Laboratory	2,342	2,418	2,418	2,418	2,418	+76	---	---	---
Office of Exhibits Central	1,723	1,841	1,841	1,841	1,841	+118	---	---	---
Traveling Exhibition Service	558	719	699	671	691	+133	-28	-8	+20
Museum of American Indian feasibility study	200	---	---	---	---	-200	---	---	---
Subtotal, Museums	71,364	75,548	75,905	75,230	75,544	+4,180	-4	-361	+314
Public Service									
Assistant Secretary for Public Service	1,269	1,305	1,305	1,305	1,305	+36	---	---	---
Smithsonian Institution Press	1,144	1,197	1,197	1,197	1,197	+53	---	---	---
Subtotal, Public Service	2,413	2,502	2,502	2,502	2,502	+89	---	---	---
Directorate of International Activities	625	908	818	818	818	+193	-90	---	---
Special Programs									
American Studies and Folklife Programs	736	806	806	806	806	+70	---	---	---
International Environmental Science Program	738	750	750	750	750	+12	---	---	---
Academic and Educational Programs	823	971	946	1,021	896	+73	-75	-50	-125
Collections Management Inventory	---	---	---	---	---	---	---	---	---
Museum Support Center	4,426	4,475	4,475	4,475	4,475	+49	---	---	---
Subtotal, Special Programs	6,723	7,002	6,977	7,052	6,927	+204	-75	-50	-125
Administration	13,493	22,356	22,271	22,042	22,206	+8,713	-150	-65	+164
Facilities Services									
Office of Design and Construction	2,100	2,261	2,186	2,261	2,261	+161	---	+75	---
Office of Protection Services	18,255	19,419	19,419	19,419	19,419	+1,164	---	---	---
Office of Plant Services	35,311	37,505	36,455	36,455	36,455	+1,144	-1,050	---	---
Subtotal, Facilities Services	55,666	59,185	58,060	58,135	58,135	+2,469	-1,050	+75	---
Columbus Quincentenary	---	---	---	-249	-164	-164	-164	-164	+85
New staffing	---	---	-600	-600	-600	-600	-600	---	---
Pay and retirement supplemental	4,354	---	---	---	---	-4,354	---	---	---
FERS reestimate	---	---	---	---	-1,064	-1,064	-1,064	-1,064	-1,064
Total, Salaries and Expenses	188,974	204,862	203,635	200,946	201,432	+12,458	-3,430	-2,203	+486

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Construction and Improvements National Zoological Park									
Base Program	2,500	5,150	7,650	8,150	8,150	+5,650	+3,000	+500	---
Restoration and Renovation of Buildings									
Base Program	12,975	14,254	19,254	17,669	19,254	+6,279	+5,000	---	+1,585
Construction									
South Quadrangle Development	3,315	---	---	---	---	-3,315	---	---	---
Smithsonian Tropical Research Institute	2,780	---	---	610	---	-2,780	---	---	-610
Fred Lawrence Whipple Observatory	---	4,470	1,315	1,800	1,315	+1,315	-3,155	---	-485
Smithsonian Environmental Research Center	---	---	---	175	---	---	---	---	-175
Total, Construction	6,095	4,470	1,315	2,585	1,315	-4,780	-3,155	---	-1,270
Total, Smithsonian Institution	210,544	228,736	231,854	229,350	230,151	+19,607	+1,415	-1,703	+801
NATIONAL GALLERY OF ART									
Salaries and Expenses									
Care and Utilization of Art Collections	12,173	13,242	13,442	13,488	13,488	+1,315	+246	+46	---
Operation and Maintenance of Buildings and Grounds	11,451	11,894	11,748	11,894	11,894	+443	---	+146	---
Protection of Buildings, Grounds, and Contents	6,638	7,520	7,520	7,520	7,520	+882	---	---	---
General Administration	4,345	4,603	4,691	4,645	4,645	+300	+42	-46	---
Pay and retirement supplemental	820	---	---	---	---	-820	---	---	---
FERS reestimate	---	---	---	---	-195	-195	-195	-195	-195
Total, Salaries and expenses	35,427	37,259	37,401	37,547	37,352	+1,925	+93	-49	-195
Repair, Restoration and Renovation of Buildings									
Base program	2,400	400	400	---	---	-2,400	-400	-400	---
Total, National Gallery of Art	37,827	37,659	37,801	37,547	37,352	-475	-307	-449	-195
WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS									
Salaries and Expenses									
Fellowship Program	1,316	1,355	1,355	1,355	1,355	+39	---	---	---
Scholar Support	266	294	294	294	294	+28	---	---	---
Public Service	759	1,072	934	1,072	1,039	+280	-33	+105	-33
General Administration	706	804	794	894	894	+188	+90	+100	---
Building Requirements	75	75	75	75	75	---	---	---	---
Conference Planning	200	398	375	445	375	+175	-23	---	-70
Pay and retirement supplemental	40	---	---	---	---	-40	---	---	---
FERS reestimate	---	---	---	---	-4	-4	-4	-4	-4
Total, Salaries and expenses	3,362	3,998	3,827	4,135	4,028	+666	+30	+201	-107
Endowment Challenge Fund									
Base program	---	---	---	500	---	---	---	---	-500
Total, Woodrow Wilson Center	3,362	3,998	3,827	4,635	4,028	+666	+30	+201	-607

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES									
National Endowment for the Arts									
Grants and Administration									
Grants									
Program Grants									
Art-in-Schools	5,300	5,100	5,300	5,300	5,300	---	+200	---	---
Dance	8,847	7,150	8,847	8,847	8,847	---	+1,697	---	---
Design Arts	4,276	3,700	4,276	4,276	4,276	---	+576	---	---
Expansion Arts	6,655	5,550	6,655	6,655	6,655	---	+1,105	---	---
Folk Arts	2,982	2,900	2,900	2,982	2,982	---	+82	+82	---
Inter Arts	3,885	3,500	3,885	3,885	3,885	---	+385	---	---
Literature	5,100	4,400	5,100	5,100	5,100	---	+700	---	---
Media Arts	12,000	8,800	12,000	12,000	12,000	---	+3,200	---	---
Museums	11,400	8,900	11,400	11,400	11,400	---	+2,500	---	---
Music	12,236	9,200	12,236	12,236	12,236	---	+3,036	---	---
Opera / Musical Theatre	4,200	3,100	4,200	4,200	4,200	---	+1,100	---	---
Local Program	2,180	2,500	2,180	2,500	2,340	+160	-160	+160	-160
Theatre	10,800	8,900	10,800	10,800	10,800	---	+1,900	---	---
Visual Arts	6,200	5,300	6,200	6,200	6,200	---	+900	---	---
Advancement	200	1,200	292	1,200	1,000	+800	-200	+708	-200
Challenge	---	250	---	250	250	+250	---	+250	---
Subtotal, Program Grants	96,261	80,450	96,271	97,831	97,471	+1,210	+17,021	+1,200	-360
State Programs	24,500	21,500	24,540	24,930	24,700	+200	+3,200	+160	-230
Subtotal, Grants	120,761	101,950	120,811	122,761	122,171	+1,410	+20,221	+1,360	-590
Administrative Areas									
Policy Planning & Research	1,000	1,050	1,000	1,050	1,000	---	-50	---	-50
Administration	14,900	16,300	16,300	16,245	16,245	+1,345	-55	-55	---
FERS reestimate	---	---	---	---	-105	-105	-105	-105	-105
Subtotal, Administrative Areas	15,900	17,350	17,300	17,295	17,140	+1,240	-210	-160	-155
Pay and retirement supplemental	200	---	---	---	---	-200	---	---	---
Total, Grants and Administration	136,861	119,300	138,111	140,056	139,311	+2,450	+20,011	+1,200	-745
Matching Grants									
Matching Grants	8,420	9,000	8,420	9,700	9,000	+580	---	+580	-700
Challenge Grants	20,000	16,900	20,000	16,200	19,420	-580	+2,520	-580	+3,220
Total, Matching Grants	28,420	25,900	28,420	25,900	28,420	---	+2,520	---	+2,520
Total, Arts	165,281	145,200	166,531	165,956	167,731	+2,450	+22,531	+1,200	+1,775
National Endowment for the Humanities									
Grants and Administration									
Grants									
Program Grants									
Public Programs									
Media Grants	8,900	8,512	8,900	8,900	8,900	---	+388	---	---
Museums and Historical Organizations	8,780	6,715	8,780	8,780	8,780	---	+2,065	---	---
Humanities programs for adults	2,000	2,128	2,000	2,000	2,000	---	-128	---	---
Humanities projects in libraries	2,900	1,892	2,400	2,900	2,900	---	+1,008	+500	---
Subtotal, Public Programs	22,580	19,247	22,080	22,580	22,580	---	+3,333	+500	---

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
Education Programs									
Education programs	16,350	14,329	16,350	16,350	16,350	---	+2,021	---	---
Fellowships									
Fellowships and seminars	15,460	14,551	15,460	15,560	15,560	+100	+1,009	+100	---
Research Grants	16,400	14,897	16,400	16,400	16,400	---	+1,503	---	---
Subtotal, Program Grants	70,790	63,024	70,290	70,890	70,890	+100	+7,866	+600	---
State Programs	21,000	17,871	21,000	21,500	21,300	+300	+3,429	+300	-200
Office of Preservation	4,000	3,594	4,500	4,500	4,500	+500	+906	---	---
Subtotal, Grants	95,790	84,489	95,790	96,890	96,690	+900	+12,201	+900	-200
Administrative Areas									
Administration	14,200	15,350	15,350	15,350	15,350	+1,150	---	---	---
Pay and retirement supplemental	400	---	---	---	---	-400	---	---	---
FERS reestimate	---	---	---	---	-105	-105	-105	-105	-105
Total, Grants and administration	110,390	99,839	111,140	112,240	111,935	+1,545	+12,096	+795	-305
Matching Grants									
Matching Grants	12,000	11,114	12,000	12,000	12,000	---	+886	---	---
Challenge Grants	16,500	15,937	16,500	15,051	16,500	---	+563	---	+1,449
Total, Matching Grants	28,500	27,051	28,500	27,051	28,500	---	+1,449	---	+1,449
Total, Humanities	138,890	126,890	139,640	139,291	140,435	+1,545	+13,545	+795	+1,144
National Capital Arts and Cultural Affairs									
Grants	4,000	---	4,000	4,500	4,500	+500	+4,500	+500	---
Martha Graham Center of Contemporary Dance									
Base program	---	---	---	4,125	---	---	---	---	-4,125
Institute of Museum Services									
Grants to Museums									
Operating Support Grants	16,962	15,300	17,445	17,445	17,445	+483	+2,145	---	---
Conservation Grants	3,400	2,947	3,500	3,500	3,448	+48	+501	-52	-52
Museum Services Board	58	55	55	55	55	-3	---	---	---
Subtotal, Grants to Museums	20,420	18,302	21,000	21,000	20,948	+528	+2,646	-52	-52
Program Administration	830	948	1,000	948	1,000	+170	+52	---	+52
FERS reestimate	---	---	---	---	-4	-4	-4	-4	-4
Total, Institute of Museum Services	21,250	19,250	22,000	21,948	21,944	+694	+2,694	-56	-4
Total, National Foundation on the Arts and Humanities	329,421	291,340	332,171	335,820	334,610	+5,189	+43,270	+2,439	-1,210
COMMISSION OF FINE ARTS									
Salaries and Expenses									
Base Programs	450	446	446	446	446	-4	---	---	---
FERS reestimate	---	---	---	---	-3	-3	-3	-3	-3
Total, Commission of Fine Arts	450	446	446	446	443	-7	-3	-3	-3

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
ADVISORY COUNCIL ON HISTORIC PRESERVATION									
Salaries and Expenses									
Advisory Services	1,533	1,734	1,719	1,719	1,719	+186	-15	---	---
NATIONAL CAPITAL PLANNING COMMISSION									
Salaries and Expenses									
Base Program	2,684	2,967	2,967	3,013	2,967	+283	---	---	-46
FERS reestimate	---	---	---	---	-19	-19	-19	-19	-19
Total, National Capital Planning Commission	2,684	2,967	2,967	3,013	2,948	+264	-19	-19	-65
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION									
Salaries and Expenses									
Base Program	5	28	28	28	28	+23	---	---	---
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION									
Salaries and Expenses									
Salaries and Expenses	2,397	2,531	2,531	2,531	2,531	+134	---	---	---
FERS reestimate	---	---	---	---	-15	-15	-15	-15	-15
Subtotal, Salaries and expenses	2,397	2,531	2,531	2,531	2,516	+119	-15	-15	-15
Public Development									
Public Improvements	3,924	3,000	3,000	3,000	3,000	-924	---	---	---
Total, Pennsylvania Avenue Development Corporation	6,321	5,531	5,531	5,531	5,516	-805	-15	-15	-15
UNITED STATES HOLOCAUST MEMORIAL COUNCIL									
Holocaust Memorial Council	2,040	2,183	2,145	2,183	2,180	+140	-3	+35	-3
Pay and retirement supplemental	35	---	---	---	---	-35	---	---	---
FERS reestimate	---	---	---	---	-9	-9	-9	-9	-9
Total, Holocaust Memorial Council	2,075	2,183	2,145	2,183	2,171	+96	-12	+26	-12
Total, Title II, Related Agencies	4,189,645	4,756,824	5,126,591	5,629,181	4,940,886	+751,241	+184,062	-185,705	-688,295
TITLE I - DEPARTMENT OF THE INTERIOR									
Bureau of Land Management	676,324	583,981	678,418	694,878	690,574	+14,250	+106,593	+12,156	-4,304
Fish and Wildlife Service	387,123	318,144	402,297	444,902	426,055	+38,932	+107,911	+23,758	-18,847
National Park Service	845,322	777,102	872,539	871,663	864,004	+18,682	+86,902	-8,535	-7,659
Geological Survey	431,540	420,178	447,324	449,908	447,747	+16,207	+27,569	+423	-2,161
Minerals Management Service	161,497	169,313	169,313	171,267	168,717	+7,220	-596	-596	-2,550
Bureau of Mines	140,412	118,630	132,727	158,392	146,398	+5,986	+27,768	+13,671	-11,994
Office of Surface Mining Reclamation and Enforcement	303,723	292,404	297,204	311,129	301,505	-2,218	+9,101	+4,301	-9,624
Bureau of Indian Affairs	1,037,253	997,709	1,058,844	1,063,670	1,072,406	+35,153	+74,697	+13,562	+8,736
Territorial Affairs	147,861	104,673	167,419	135,209	153,795	+5,934	+49,122	-13,624	+18,586
Secretarial Offices	81,880	93,860	89,158	90,095	90,129	+8,249	-3,731	+971	+34
Total, Title I - Department of the Interior	4,212,935	3,875,994	4,315,243	4,391,113	4,361,330	+148,395	+485,336	+46,087	-29,783

91-059 O-89-34 (Pt. 26)

	FY 1987 Enacted	FY 1988 Estimates	House	Senate	Conference	Conference compared to Enacted	Conference compared to Estimates	Conference compared to House	Conference compared to Senate
TITLE II - RELATED AGENCIES									
Forest Service	1,679,469	1,457,309	1,666,847	1,711,931	1,686,320	+6,851	+229,011	+19,473	-25,611
Department of the Treasury	---	---	---	---	---	---	---	---	---
Department of Energy	(888,833)	(1,842,334)	(1,738,662)	(2,200,619)	(1,538,196)	(+649,363)	(-304,138)	(-200,466)	(-662,423)
Clean Coal Technology	---	350,000	50,000	350,000	50,000	+50,000	-300,000	---	-300,000
Fossil Energy	295,866	149,900	345,394	291,390	326,975	+31,109	+177,075	-18,419	+35,585
Naval Petroleum and Oil Shale Reserves	122,177	159,700	159,700	159,700	159,663	+37,486	-37	-37	-37
Energy Conservation	233,612	86,090	326,114	338,824	309,517	+75,905	+223,427	-16,597	-29,307
Economic Regulation	23,400	21,680	21,680	21,741	21,565	-1,835	-115	-115	-176
Emergency Preparedness	6,044	6,206	6,206	6,206	6,206	+162	---	---	---
Strategic Petroleum Reserve	147,433	164,225	164,225	164,225	164,162	+16,729	-63	-63	-63
SPR Petroleum Account	---	842,934	603,744	806,934	438,744	+438,744	-404,190	-165,000	-368,190
Energy Information Administration	60,301	61,599	61,599	61,599	61,398	+1,097	-201	-201	-201
Indian Health	940,750	796,835	1,010,980	1,004,746	1,005,808	+65,058	+208,973	-5,172	+1,062
Indian Education	64,036	64,234	66,343	66,343	66,326	+2,290	+2,092	-17	-17
Navajo and Hopi Indian Relocation Commission	22,335	21,490	25,270	25,270	25,270	+2,935	+3,780	---	---
Smithsonian	210,544	228,736	231,854	229,350	230,151	+19,607	+1,415	-1,703	+801
National Gallery of Art	37,827	37,659	37,801	37,547	37,352	-475	-307	-449	-195
Woodrow Wilson International Center for Scholars	3,362	3,998	3,827	4,635	4,028	+666	+30	+201	-607
National Endowment for the Arts	165,281	145,200	166,531	165,956	167,731	+2,450	+22,531	+1,200	+1,775
Arts and Artifacts Indemnity Fund	---	---	---	---	---	---	---	---	---
National Endowment for the Humanities	138,890	126,890	139,640	139,291	140,435	+1,545	+13,545	+795	+1,144
Martha Graham Center of Contemporary Dance	---	---	---	4,125	---	---	---	---	-4,125
National Capital Arts and Cultural Affairs	4,000	---	4,000	4,500	4,500	+500	+4,500	+500	---
Institute of Museum Services	21,250	19,250	22,000	21,948	21,944	+694	+2,694	-56	-4
Commission of Fine Arts	450	446	446	446	443	-7	-3	-3	-3
Advisory Council on Historic Preservation	1,533	1,734	1,719	1,719	1,719	+186	-15	---	---
National Capital Planning Commission	2,684	2,967	2,967	3,013	2,948	+264	-19	-19	-65
Franklin Delano Roosevelt Memorial Commission	5	28	28	28	28	+23	---	---	---
Pennsylvania Avenue Development Corporation	6,321	5,531	5,531	5,531	5,516	-805	-15	-15	-15
Holocaust Memorial Council	2,075	2,183	2,145	2,183	2,171	+96	-12	+26	-12
Total, Title II - Related Agencies	4,189,645	4,756,824	5,126,591	5,629,181	4,940,886	+751,241	+184,062	-185,705	-688,295
Grand total	8,402,580	8,632,818	9,441,834	10,020,294	9,302,216	+899,636	+669,398	-139,618	-718,078
Grand total	8,402,580	8,632,818	9,441,834	10,020,294	9,302,216	+899,636	+669,398	-139,618	-718,078
Advance appropriation-FY 1989 (by transfer)	---	(500,000)	(200,000)	(500,000)	(525,000)	(+525,000)	(+25,000)	(+325,000)	(+25,000)
Advance appropriation-FY 1990 (by transfer)	---	(500,000)	(100,000)	---	---	---	(-500,000)	(-100,000)	---
Advance appropriation-FY 1991 (by transfer)	---	(500,000)	---	---	---	---	(-500,000)	---	---
Advance appropriation-FY 1992 (by transfer)	---	(500,000)	---	---	---	---	(-500,000)	---	---

shortage of decent, safe, and sanitary dwellings for families of lower income and, consistent with the objectives of this title, to vest Indian housing authorities the maximum amount of responsibility in the administration of their housing programs. No person may be barred from serving on the board of directors or similar governing body of an Indian housing authority because of his or her tenancy in a lower income housing project.

"RENTAL PAYMENTS; DEFINITIONS

"SEC. 202. (a)(1) Dwelling units assisted under this title shall be rented only to families who are lower income families at the time of their initial occupancy of such units. Reviews of family income shall be made at least annually.

"(2) A family shall pay as rent for a dwelling unit assisted under this title (other than a family assisted under the Mutual Help Homeownership Program) the highest of the following amounts, rounded to the nearest dollar:

"(A) 20 per centum of the family's monthly adjusted income;

"(B) 10 per centum of the family's monthly income; or

"(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

"(3) Any Indian housing authority may provide that each family residing in an Indian housing project owned and operated by such authority shall pay as monthly rent an amount determined by such authority to be appropriate that does not exceed a maximum amount that—

"(A) is established by such authority and approved by the Secretary;

"(B) is not more than the amount payable as rent by such family under paragraph (1); and

"(C) is not less than whichever of the following is lower:

"(i) The average monthly amount of debt service and operating expenses attributable to dwelling units of similar size in Indian housing projects owned and operated by such authority.

"(ii) The fair market rentals established in the housing area for dwelling units under section 8(b)(1).

"(4) A family participating under a Mutual Help Homeownership Program that contributes labor, land, materials or cash to the development of such projects shall make monthly payments for its units in an amount established by the Indian housing authority and approved by the Secretary.

"(b) When used in this title:

"(1) The term 'lower income housing' means decent, safe, and sanitary dwellings assisted under this title. The term 'Indian housing' means lower income housing, and all necessary appurtenances thereto, assisted under this title. When used in reference to Indian housing, the term 'lower income housing project' or 'project' means (A) housing developed, acquired, or assisted by an Indian housing authority under this title, and (B) the improvement of any such housing.

"(2) The term 'lower income families' means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes. The term 'very low-income families' means lower income families whose incomes do not exceed 50 per centum 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 establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's finding that such variations are necessary because of unusually high or low family incomes.

"(3) The term 'families' includes families consisting of a single person in the case of (A) a person who is at least sixty-two years of age or is under a disability as defined in section 223 of the Social Security Act, has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001), or is handicapped, (B) a displaced person, (C) the remaining member of a tenant family, and (D) other single persons in circumstances described in regulations issued by the Secretary. In no event shall more than 15 per centum of the units under the jurisdiction of any Indian housing authority be occupied by single persons under clause (D). In determining priority for admission to housing under this title, the Secretary shall give preference to those single persons who are elderly, handicapped, or displaced before those eligible under clause (D). The term 'elderly families' means families whose heads (or their spouses), or whose sole members, are persons described in clause (A). A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which is expected to be of long-continued and indefinite duration, substantially impedes such person's ability to live independently, and is of such a nature that such ability could be improved by more suitable housing conditions. The term 'displaced person' means a person displaced by governmental actions, 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. Notwithstanding the preceding provisions of this subsection, the term 'elderly families' includes two or more elderly, disabled, or handicapped individuals living together, or one or more such individuals living with one or more persons determined under regulations issued by the Secretary to be essential to their care or well-being. The Secretary may increase the limitation described in the second sentence of this paragraph to not more than 30 per centum if, following consultation with the Indian housing authority involved, the Secretary determines that the dwelling units involved are neither being occupied nor are likely to be occupied within the next twelve months by families or persons described in clauses (A), (B), and (C), due to the condition or location of such dwelling units, and that such dwelling units may be occupied if made available to single persons described in clause (D).

"(4) The term 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary.

"(5) The term 'adjusted income' means the income which remains after excluding—

"(A) four hundred and eighty dollars for each member of the family residing in the household (other than the head of the household or his spouse) who is under eighteen years or older and is disabled or handicapped or a full-time student;

"(B) four hundred dollars for an elderly family;

"(C) the amount by which the aggregate of the following expenses of the family exceeds 3 per centum of annual family income: (i) medical expenses for an elderly family; and (ii) reasonable attendant care and auxiliary apparatus expenses for each handicapped member of any family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed; and

(D) (i) child care expenses to the extent necessary to enable another member of the family to be employed or to further his or her education or (ii) excessive travel expenses, not to exceed twenty-five dollars per family per week for employment or education related travel.

"(6) The term 'Indian housing authority' means an Indian housing authority, which services an Indian tribe as defined in paragraph (7), established (A) by exercise or tribal power of self-government independent of State law, or (B) by operation of State law providing specifically for housing authorities for Indians.

"(7) The term 'Indian tribe' includes any Indian tribes, bands, groups, or Nations, including Alaska Indians, Aleuts, and Eskimos of the United States.

"(8) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(c) When used in reference to Indian housing:

"(1) The term 'development' means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a lower income housing project. The term 'development cost' comprises the costs incurred by an Indian housing authority in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project. Construction activity in connection with a lower income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

"(2) The term 'operation' means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or refinancing in connection with a lower income housing project. The term also means the financing of tenant programs and services for families residing in lower income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term 'tenant programs and services' includes the development and maintenance of tenant organizations which participate in the management of lower income housing projects, the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and replacement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and re-

ferral 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.

"(3) The term 'acquisition cost' means the amount prudently required to be expended by an Indian housing authority in acquiring property for a lower income housing project.

"LOANS FOR LOWER INCOME HOUSING PROJECTS

"SEC. 203. (a) The Secretary may make loans or commitments to make loans to Indian housing authorities to help finance or refinance the development, acquisition, or operation of lower income housing projects by such authorities. Any contract for such loans and any amendment to a contract for such loans shall provide that such loans shall bear interest at a rate specified by the Secretary which shall not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of 1 per centum. Such loans shall be secured in such manner and shall be repaid within such period not exceeding forty years, or not exceeding forty years from the date of the bonds evidencing the loan, as the Secretary may determine. The Secretary may require loans or commitments to make loans under this section to be pledged as security for obligations issued by a Indian housing authority in connection with a lower income housing project.

"(b) The Secretary may issue and have outstanding at any one time notes and other obligations for purchase by the Secretary of the Treasury in an amount necessary to carry out the functions of this section. For purpose of determining obligations incurred to make loans pursuant to this Act against any limitation otherwise applicable with respect to such loans, the Secretary shall estimate the maximum amount to be loaned at any one time pursuant to loan agreements then outstanding with Indian housing authority. Such notes or other obligations shall be in such forms and denominations and shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The notes or other obligations issued under this subsection 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 notes or other obligations of the Secretary issued hereunder and for such purpose is authorized to 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 securities may be issued under such chapter are extended to include any purchases of such obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him or her under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(c)(1) At such times as the Secretary may determine, and in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary under sections 4(a) or 203(a) of this Act to an Indian housing authority that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; and the terms and conditions of any contract, or any amendment to a contract, for such loans with respect to any promise to repay such principal and interest shall be canceled. Such cancellation shall not affect any other terms and conditions of such contract which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan the repayment of which was not to be made using annual contributions, or to any loan all or part of the proceeds of which are due an Indian housing authority from contractors or others.

"(2)(A) Each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to sections 4(b) or 203(b) of this Act for the benefit of Indian housing authorities, together with any promise to repay the principal and interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

"(B) On September 30, 1987, and on any subsequent September 30, each such note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant sections 4(b) or 203(b) of this Act for the benefit of an Indian housing authority during the fiscal year ending on such date, together with any promise to repay the principal and interest that has accrued on each note or obligation, shall be forgiven, and any other term or condition specified by each such obligation shall be canceled.

"(3) Any amount of budget authority (and contract authority) that becomes available during any fiscal year as a result of the forgiveness of any loan, note, or obligation under this subsection shall be rescinded.

"CONTRIBUTIONS FOR LOWER INCOME HOUSING PROJECTS

"SEC. 204. (a)(1) The Secretary may make annual contributions to Indian housing authorities to assist in achieving and maintaining the lower income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the Indian housing authority to finance the development or acquisition cost of the lower income project involved. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by an Indian housing authority to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed forty years. The Secretary shall not enter into a contract guaranteeing the payment of annual contributions under this section with respect to Indian housing projects, except with respect to a project for which funding has been reserved before October 1, 1987.

"(2) On and after October 1, 1987, the Secretary may only make one-time capital contributions to Indian housing authorities to cover the development cost of Indian housing projects. The contract under which such contributions shall be made shall specify the amount of capital contributions required for each project to which the contract pertains and the period (not to exceed forty years) during which the terms and conditions of such contract shall remain in effect.

"(3) The amount of contributions which would be established for a newly constructed project by an Indian housing authority designed to accommodate a number of families of a given size and kind may be established under this section for a project by such Indian housing authority which would provide housing for the comparable number, sizes, and kinds of families through the acquisition and rehabilitation, or use under lease, of structures which are suitable for lower income housing use and obtained in the local market.

"(b) The Secretary may prescribe regulations fixing the maximum contributions available under different circumstances, giving consideration to cost, location, size, rent-paying ability of prospective tenants, or other factors bearing upon the amounts and periods of assistance needed to achieve and maintain low rentals. Such regulations may provide for rates of contribution based upon development, acquisition, or operation costs, number of dwelling units, number of persons housed, interest charges, or other appropriate factors.

"(c)(1) The Secretary may enter into contracts for annual contributions. The authority to enter into such contracts shall be effective only in such amounts as may be approved in appropriation Acts.

"(2) The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into.

"(3) The full faith and credit of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments.

"(4) All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this title when such payments are due, except that funds obtained through the issuance of obligations pursuant to section 203(b) (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions.

"(5) During such period as the Secretary may prescribe for starting construction, the Secretary may approve the conversion of Indian housing development authority for use under section 209 or for use for the acquisition and rehabilitation of property to be used in Indian housing, if the Indian housing agency, after consultation with the tribe, certifies that such assistance would be more effectively used for such purpose, and if the total number of units assisted will not be less than 90 per centum of the units covered by the original reservation.

"(d) Any contract for loans or annual contributions, or both, entered into by the Secretary with an Indian housing authority, may cover one or more than one lower income housing project owned by such Indian housing authority; in the event the contract covers two or more projects, such projects may, for any of the purposes of this title and of such contract (including, but not limited to, the determination of the amount of the loan, annual contributions, or payments in lieu of taxes, specified in such contract), be treated collectively as one project.

"(e) In recognition that there should be local determination of the need for lower income housing—

"(1) the Secretary shall not make any contract with an Indian housing authority for preliminary loans (all of which shall be repaid out of moneys which become available to such agency for the development of the projects involved) for surveys and planning in respect to any lower income housing projects (i) unless the tribe involved by resolution approved the application of the Indian housing authority for such preliminary loan, and (ii) unless the Indian housing authority has demonstrated to the satisfaction of the Secretary that there is need for such lower income housing; and

"(2) the Secretary shall not make any contract for loans (other than preliminary loans) or for contributions pursuant to this title unless the tribe involved has entered into an agreement with the Indian housing authority providing for the local cooperation required by the Secretary pursuant to this Act.

"(f) Subject to the specific limitations or standards in this Act governing the terms of sales, rentals, leases, loans, contracts for annual contributions, or other agreements, the Secretary may, whenever the Secretary deems it necessary or desirable in the fulfillment of the purposes of this Act, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of annual contribution, or any other term, of any contract or agreement of any kind to which the Secretary is a party. When the Secretary finds that it would promote economy or be in the financial interest of the Federal Government or is necessary to assure or maintain the lower income character of the project or projects involved, any contract heretofore or hereafter made for annual contributions, loans, or both, may be amended or superseded by a contract entered into by mutual agreement between the Indian housing authority and the Secretary. Contracts may not be amended or superseded in a manner which would impair the rights of the holders of any outstanding obligations of the Indian Housing authority involved for which annual contributions have been pledged. Any rule of law contrary to this provision shall be deemed inapplicable.

"(g) In addition to the authority of the Secretary under subsection (a) to pledge annual contributions as security for obligations issued by an Indian housing authority, the Secretary is authorized to pledge annual contributions as a guarantee of payment by an Indian housing authority of all principal and interest on obligations issued by it to assist the development or acquisition of the project to which the annual contributions relate, except that no obligation shall be guaranteed under this subsection if the income thereon is exempt from Federal taxation.

"(h) Notwithstanding any other provision of law, an Indian housing authority may sell a lower income housing project to its lower income tenants, on such terms and conditions as the authority may determine, without affecting the Secretary's commitment to pay annual contributions with respect to that project, but such contributions shall not exceed the maximum contributions authorized under subsection (a) of this section.

"(i) In entering into contracts for assistance with respect to newly constructed or substantially rehabilitated projects under this section, the Secretary shall require the installation of a passive or active solar energy system in any such project where the Secretary determines that such installation would be cost effective over the estimated life of the system.

"CONTRACT PROVISIONS AND REQUIREMENTS

"SEC. 205. (a) The Secretary may include in any contract for loans, capital contributions, sale, lease, mortgage, or any other agreement or instrument made pursuant to this title, such covenants, conditions, or provisions as the Secretary may deem necessary in order to insure the lower income character of the project involved. Any such contract may contain a condition requiring the maintenance of an open space or playground in connection with the housing project involved if deemed necessary by the Secretary for the safety or health of children. Any such contract shall require that, except in the case of housing predominantly for the elderly, high-rise elevator projects shall not be provided for families with children unless the Secretary makes a determination that there is no practical alternative.

"(b) Every contract for contributions shall provide that—

"(1) the Secretary may require the Indian housing authority to review and revise its maximum income limits if the Secretary determines that changed conditions in the locality make such revision necessary in achieving the purposes of this title;

"(2) the Indian housing authority shall determine, and so certify to the Secretary, that each family in the project was admitted in accordance with duly adopted regulations and approved income limits; and the Indian housing authority shall review the incomes of families living in the project no less frequently than annually;

"(3) the Indian housing authority shall promptly notify (A) any applicant determined to be ineligible for admission to the project of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination, and (B) any applicant determined to be eligible for admission to the project of the approximate date of occupancy insofar as such date can be reasonably determined; and

"(4) the Indian housing authority shall comply with such procedures and requirements as the Secretary may prescribe to assure that sound management practices will be followed in the operation of the project, including requirements pertaining to—

"(A) except for projects or portions of projects specifically designated for elderly families with respect to which the Secretary has determined that application of this clause would result in excessive delays in meeting the housing need of such families, the establishment of tenant selection criteria which gives preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this title or are paying more than 50 per centum of family income for rent and which is designated to assure that, within a reasonable period of time, the project will include families with a broad range of incomes and will avoid concentrations of lower income and deprived families with serious social problems, but this shall not permit maintenance of vacancies to await higher income tenants where lower income tenants are available;

"(B) the establishment of satisfactory procedures designed to assure the prompt payment and collection of rents and the prompt processing of evictions in the case of nonpayment of rent;

"(C) the establishment of effective tenant-management relationships designated to assure that satisfactory standards of tenant security and project maintenance are formulated and that the Indian housing authority (together with tenant councils where they exist) enforces those standards fully and effectively; and

"(D) the development by local housing authority managements of viable homeownership opportunity programs for lower income families capable of assuming the responsibilities of homeownership.

"(c) Every contract for contributions with respect to a lower income housing project shall provide that no contributions by the Secretary shall be made available for such project unless such project (exclusive of any portion thereof which is not developed or assisted by contributions under this title) is exempt from all real and personal property taxes levied or imposed by the State, tribe, city, county, or other political subdivision; and such contract shall require the Indian housing authority to make payments in lieu of taxes equal to 10 per centum of the sum of the shelter rents charged in such project, or such lesser amount as (i) is prescribed by State or tribal law, or (ii) is agreed to by the tribe in its agreement for local cooperation with the Indian housing authority required under section 204(e)(2) of this title, or (iii) is due to failure of a tribal body or tribes other than the Indian housing authority to perform any obligation under such agreement. If any such project is not exempt from all real and personal property taxes levied or imposed by the State, tribe, city, county, or other political subdivision, such contract shall provide, in lieu of the requirement for tax exemption and payments in lieu of taxes, that no contributions by the Secretary shall be made available for such project unless and until the State, tribe, city, county, or other political subdivision in which such project is situated shall contribute, in the form of cash or tax remission, the amount by which the taxes paid with respect to the project exceed 10 per centum of the shelter rents charged in such project.

"(d) Every contract for contributions shall provide that whenever in any year the receipts of an Indian housing authority in connection with a lower income housing project exceed its expenditures (including debt service, operation, maintenance, establishment of reserves, and other costs and charges), an amount equal to such excess shall be applied, or set aside for application, to purposes which, in the determination of the Secretary, will effect a reduction in the amount of subsequent contributions.

"(e) Every contract for contributions (including contracts which amend or supersede contracts previously made) may provide that—

"(1) upon the occurrence of a substantial default in respect to the covenants or conditions to which the Indian housing authority is subject (as such substantial default shall be defined in such contract, the Indian housing authority shall be obligated at the option of the Secretary either to 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 title, or to deliver to the Secretary possession of the project, as then constituted, to which such contract relates; and

"(2) the Secretary shall be obligated to reconvey or redeliver possession of the

project, as constituted at the time of reconveyance or redelivery, to such Indian housing authority or to its successor (if such Indian housing authority or a successor exists) upon such terms as shall be prescribed in such contract, and as soon as practicable (A) after the Secretary is satisfied that all defaults with respect to the project have been cured, and that the project will, in order to fulfill the purpose of this title, thereafter be operated in accordance with the terms of such contract; or (B) after the termination of the obligation to make annual contributions available unless there are any obligations or covenants of the Indian housing 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 project to the Secretary pursuant to paragraph (1) upon the subsequent occurrence of a substantial default. Whenever such a contract for annual contributions includes provisions which the Secretary in such contract determines are in accordance with this subsection, and the portion of the contribution payable for debt service requirements pursuant to such contract has been pledged by the Indian housing authority as security for the payment of the principal and interest on any of its obligations, the Secretary (notwithstanding any other provision of this title) shall continue to make such contributions available for the project so long as any of such obligations remain outstanding, and may covenant in such contract that in any event such contributions 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 project for the purpose at the time such contribution is made, will suffice for the payment of all installments, falling due within the next succeeding twelve months, of principal and interest on the obligations for which the contributions provided for in the contract shall have been pledged as security. In no case shall such contributions 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.

"(f) In entering into commitments for the development of Indian housing, the Secretary shall give a priority to projects for the construction, acquisition, or acquisition and rehabilitation of housing suitable for occupancy by families requiring three or more bedrooms.

"(g) The Secretary shall by regulation require each Indian housing authority receiving assistance under this title to establish and implement an administrative grievance procedure under which tenants will—

"(1) be advised of the specific grounds of any proposed adverse Indian housing authority action;

"(2) have an opportunity for a hearing before an impartial party upon timely request within any period applicable under subsection (h);

"(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 his or her choice at any hearing;

"(5) be entitled to ask questions of witnesses and have others make statements on his or her behalf; and

"(6) be entitled to receive a written decision by the Indian housing authority on the proposed action.

An Indian housing authority may exclude from its procedure any grievance concerning an eviction or termination of tenancy in any jurisdiction which requires that, prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process.

"(h) Each Indian housing authority shall use leases which—

"(1) do not contain unreasonable terms and conditions;

"(2) obligate the Indian housing authority to maintain the project in a decent, safe, and sanitary condition;

"(3) require the Indian housing authority to give adequate written notice of termination of the lease which shall not be less than—

"(A) a reasonable time, but not to exceed thirty days, when the health or safety of other tenants or Indian housing authority employees is threatened;

"(B) fourteen days in the case of nonpayment of rent; and

"(C) thirty days in any other case; and

"(4) require that the Indian housing authority may not terminate the tenancy except for serious or repeated violation of the terms or conditions of the lease or for other good cause.

"(i) The Secretary shall not impose any unnecessarily duplicative or burdensome reporting requirements on tenants of Indian housing authorities assisted under this title.

"ANNUAL CONTRIBUTIONS FOR OPERATION OF LOWER INCOME HOUSING PROJECTS

"SEC. 206. (a)(1) In addition to the contributions authorized to be made for the purposes specified in section 204 of this title, the Secretary may make annual contributions to Indian housing authorities for the operation of lower income housing projects. The contributions payable annually under this section shall not exceed the amounts which the Secretary determines are required (A) to assure the lower income character of the projects involved, (B) to achieve and maintain adequate operating services and reserve funds, and (C) to provide funds (in addition to any other operating costs contributions approved by the Secretary under this section) as determined by the Secretary to be required to cover the administrative costs to an Indian housing authority during the development period of a project approved pursuant to section 204 and until such time as the project is occupied. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payments subject to the availability of funds, and such contract shall provide that no disposition of the lower income housing project, with respect to which the contract is entered into, shall occur during and for ten years after the period when contributions were made pursuant to such contract unless approved by the Secretary. For purposes of making payments under this section, the Secretary shall establish standards for costs of operation and reasonable projects of income, taking into account the character and location of the project and characteristics of the families served, or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed project. Where the Secretary determines that an Indian housing authority has failed to submit an acceptable audit on a timely basis in accordance with applicable program requirements, the Secretary may arrange for and pay the costs of such an audit. In such circumstances, the Secretary may withhold from assistance otherwise payable to the authority under this section amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, where appropriate, the reasonable costs of accounting services necessary to place the authority's books and records in auditable condition.

"(2) The Secretary may not make assistance available under this section for any lower income housing project unless such project is one developed pursuant to a contributions contract authorized by sections 5(c) or 205, except that after the duration of any such contributions contract with respect to a lower income housing project, the Secretary may provide assistance under this section with respect to such project as long as the lower income nature of such project is maintained.

"(b) The aggregate rentals required to be paid in any year by families residing in the dwelling units administered by an Indian housing authority receiving annual contributions under this section shall not be less than an amount equal to one-fifth of the sum of the incomes of all such families.

"(c) There are authorized to be appropriated, for the purpose of providing payments pursuant to this section such sums as may be necessary.

"(d) If, in any fiscal year, any funds which have been appropriated for such year remain after applying the provisions of the second and fourth sentences of subsection (a)(1), the Secretary shall distribute such funds to lower income housing projects which incurred excessive costs which were beyond their control and the full extent of which was not taken into account in the original distribution of funds for such fiscal year.

"FINANCING LOWER INCOME HOUSING PROJECTS

"SEC. 207. (a) Obligations issued by an Indian housing authority in connection with lower income housing projects which (1) are secured (A) by a pledge of a loan under any agreement between such Indian housing authority and the Secretary, or (B) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Secretary, or (C) by a pledge of both annual contributions under an annual contributions contract and a loan under an agreement between such Indian housing authority and the Secretary, and (2) bear, or are accompanied by, a certificate of the Secretary that such obligations are so secured, shall be incontestable in the hands of a bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

"(b) Except as provided in section 204(g), obligations, including interest thereon, issued by Indian housing authorities in connection with lower income housing projects shall be exempt from all taxation now or hereafter imposed by the United States whether paid by such authorities or by the Secretary. The income derived by such authorities from such projects shall be exempt from all taxation now or hereafter imposed by the United States.

"LABOR STANDARDS

"SEC. 208. Any contract for loans, contributions, sale, or lease pursuant to this title shall contain 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 architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operations, of the lower income housing project involved.

"COMPREHENSIVE GRANT PROGRAM

"SEC. 209. (a) PURPOSE AND AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE.—(1) The purpose of this section is to provide Indian housing authorities with a predictable source of funding and, through deregulation, with the flexibility to determine the most appropriate use of available funding, in order to assume the responsibility for improving the physical condition of existing Indian housing projects, upgrading their management and operation, and thereby contributing to their long-term viability and their continued availability to provide decent, safe, and sanitary living conditions for lower income families.

"(2) The Secretary may make available, and contract to make available, financial assistance to Indian housing authorities in accordance with the provisions of this section with respect to Indian housing (as defined in section 202(b)(1)) owned or operated by them.

"(b) ALLOCATIONS.—(1) From the amount approved in an appropriation Act for any year for financial assistance under this section, the Secretary shall determine the amount necessary to fund the annual accrual of capital improvement needs of Indian housing authorities, based on available data concerning these needs. The Secretary shall allocate this amount to each Indian housing authority on the basis of a formula, which is based on objectively measurable criteria which reflect the annual accrual of capital improvement needs of each Indian housing authority.

"(2) The Secretary shall allocate the amount that remains after the allocation referred to in paragraph (1) to Indian housing authorities, based on the relative current needs of the authorities for capital improvements, as determined by the Secretary.

"(c) CONDITIONS FOR FUNDING.—No financial assistance may be made available under this section unless: (1) the Indian housing authority has certified that it has completed and retained in its files a comprehensive plan that is in conformity with applicable program requirements, and submitted a one-year work plan, as required by subsection (f); and (3) the Secretary approves the work plan, in accordance with subsection (g). Authorities which the Secretary determines do not meet, or are not making reasonable progress toward meeting, the performance standards under subsection (h)(2)(C) shall submit their comprehensive plan to the Secretary for review and approval. The Secretary's review shall assess whether the plan is adequate to improve the physical condition of the authority's housing projects, upgrade their management and operation, and contribute to their long-term viability and their continued availability to provide decent, safe, and sanitary living conditions for lower income families. Notwithstanding the conditions for funding in this subsection, the Secretary may provide assistance where necessary to correct conditions that constitute an immediate threat to the health or safety of tenants.

"(d) COMPREHENSIVE PLAN.—The comprehensive plan shall contain—

"(1) a comprehensive assessment of—

"(A) the current physical condition of each project owned or operated by the authority;

"(B) the physical improvements necessary for each project to permit the project to be rehabilitated to a level the authority determines is appropriate for the project; and

"(C) the replacement needs of equipment systems and structural elements which will be required to be met (assuming routine and timely maintenance is performed) during the five-year period covered by the assessment;

"(2) a comprehensive assessment of the improvements needed to upgrade the management and operation of the authority and of each project so that decent, safe, and sanitary living conditions will be provided, including at least an identification of needs related to—

"(A) the management, financial, and accounting control systems of the authority for the projects;

"(B) the adequacy and qualifications of personnel employed by the authority in the management and operation of the projects for each category of employment; and

"(C) the adequacy and efficacy of (i) tenant programs and services; (ii) the security of each project and its tenants; (iii) policies and procedures of the authority for the selection and eviction of tenants; and (iv) other policies and procedures of the authority relating to the projects, as listed in regulations issued by the Secretary;

"(3) an analysis, made on a project-by-project basis in accordance with standards prescribed by the Secretary, demonstrating that completion of the improvements and replacements identified under paragraphs (1) and (2) will reasonably assure the long-term viability of the project at a reasonable cost;

"(4) based on a reasonable expectation of continued funding, a five-year work plan to correct the deficiencies identified under paragraphs (1) and (2) to the extent possible within the five-year timeframe. The five-year work plan shall provide for making the improvements and replacements identified under paragraphs (1) and (2) which, pursuant to the analysis described in paragraph (3), the authority anticipates will reasonably assure the long-term viability of projects at a reasonable cost, and reasonably assure the efficient use of funds to achieve decent, safe, and sanitary living conditions for most lower income families. The work plan shall include at least a schedule, in priority order, of the actions which are to be completed, over a period of not more than five years, and which are necessary (A) to make the improvements and replacements identified under paragraph (1) for each project expected to receive capital improvements or replacements; and (B) to upgrade the management and operation of the authority and its projects as identified under paragraph (2);

"(5) a statement from the Indian tribal official that the tribe has been consulted on the development of the comprehensive plan, has had an opportunity to comment, has approved the comprehensive plan, and will cooperate in the work process and provision of tenant programs and services;

"(6) a preliminary estimate of the total cost of the items identified in paragraphs (1) and (2), including a preliminary estimate of the costs that will be incurred during each year covered by the comprehensive plan; and

"(7) such other information as the Secretary may require.

"(e) PUBLIC COMMENT.—To permit tenant, public, and tribal government examination and appraisal of the comprehensive plan, to further enhance authority flexibility and accountability, and to facilitate coordination of activities among various levels of government, the authority shall in a timely manner—

"(1) give the tenants, the public, and the tribal government information concerning the amount of funds expected to be available each year for comprehensive improvements;

"(2) publish an announcement that the proposed comprehensive plan is available for review, and make it sufficiently available, so tenants, the public, and the tribal government have an opportunity to examine it and submit comments;

"(3) hold at least one meeting for tenants in projects to be affected by each comprehensive plan to obtain views on the agency's comprehensive plan;

"(4) hold at least one public hearing to obtain views on the authority's comprehensive plan; and

"(5) take comments into consideration.

"(f) ONE-YEAR WORK PLAN.—(1) To receive assistance with respect to any fiscal year, each Indian housing authority shall prepare, and submit to the Secretary, a one-year work plan indicating the particular activities to be conducted in the next authority fiscal year. The one-year work plan shall be based on the comprehensive plan and reflect the actions necessary to assure the long-term viability of the projects at a reasonable cost and the schedule of priorities contained in the comprehensive plan.

"(2) The authority shall submit, with the one-year work plan, an information copy of any amendments to its five-year comprehensive plan or of a revised plan, and certifications—

"(A) that it has completed the comprehensive plan in conformity with applicable program requirements;

"(B) that the one-year work plan is consistent with the comprehensive plan;

"(C) that it has provided the tenants of Indian housing and other interested parties the opportunity to review the work plan and comment on it, and that such comments have been taken into account in formulating the plan as submitted to the Secretary;

"(D) from the Indian tribal official that the tribe has been consulted on the development of the one-year work plan, has had an opportunity to comment on it, has approved the one-year work plan, and will cooperate in the work process and provision of tenant programs and services;

"(E) that it will spend the funds available under the one-year work plan in accordance with subsection (i) in such a way as to accomplish the actions in the plan in a cost-effective manner; and

"(F) that it will implement the one-year work plan in conformance with (i) the Indian Civil Rights Act (Title II of the Civil Rights Act of 1968), (ii) title VI of the Civil Rights Act of 1964, (iii) title VIII of the Civil Rights Act of 1968, and (iv) section 504 of the Rehabilitation Act of 1973.

"(g) REVIEW OF ONE-YEAR WORK PLANS BY THE SECRETARY.—(1) The Secretary shall approve a one-year work plan submitted under subsection (f) unless—

"(A) the plan is incomplete;

"(B) on the basis of available significant facts and data pertaining to the physical and operational condition of the Indian housing authority's projects or the management and operations of the authority, the Secretary determines that the authority's identification of work is plainly inappropriate to contributing to the long-term viabili-

ty of the projects or maintaining the decent, safe, and sanitary character of the project; or

"(C) there is evidence available to the Secretary which tends to challenge in a substantial manner any certification contained in the plan.

"(2) The plan shall be considered to be approved unless the Secretary notifies the authority in writing within seventy-five days of submission that the Secretary has disapproved the plan as submitted. The notice shall detail the reasons for disapproval and the modifications required to make the plan approvable and, where appropriate, specify why the proposed work is plainly inappropriate to contributing to the long-term viability of the projects or maintaining their decent, safe, and sanitary character.

"(h) ANNUAL PERFORMANCE REPORTS; REVIEWS AND AUDITS.—

"(1) PERFORMANCE AND EVALUATION REPORTS.—Each Indian housing authority receiving assistance under this section shall submit to the Secretary, on a date determined by the Secretary, the performance and evaluation report concerning the use of funds made available under this section. The report of the authority shall include its assessment of the relationship of such use, as well as the use of other funds, to the needs identified in the applicable one-year work plan of the authority and to the purposes of this section. The agency shall certify that it made the report available for review and comment by tenants, the public, the Indian government, and other interested parties before its submission to the Secretary.

"(2) REVIEWS BY SECRETARY.—The Secretary shall, at least on an annual basis, make such reviews as may be necessary or appropriate to determine whether each authority receiving assistance under this section—

"(A) has carried out its activities under this section in a timely manner and in accordance with its one-year work plan;

"(B) has a continuing capacity to carry out its one-year work plans in a timely manner;

"(C) has satisfied, or has made reasonable progress towards satisfying, such performance standards as shall be prescribed, by the Secretary, which shall include at least that the authority shall—

"(i) maintain all occupied dwelling units in Indian housing projects eligible for assistance under this section at levels at least equal to the housing quality standards established by the Secretary under section 8(o)(6) of this Act;

"(ii) maintain at least a 97 per centum occupancy rate for all dwelling units in such projects; and

"(iii) maintain an operating reserve, as authorized under section 206(a), equal to at least 20 per centum of the routine expenses in the operating budget of each year; and

"(D) has made reasonable progress in carrying out modernization projects approved under the provisions of section 14 of this Act, as it existed immediately before the effective date of this title. The Secretary shall make the determination under clause (D) of the preceding sentence before providing financial assistance under this section with respect to the first funding cycle after the effective date of this title as well as for later funding cycles.

"(3) AUDITS OF FINANCIAL TRANSACTIONS.—Recipients of assistance under this section shall have an audit made in accordance with chapter 75 of title 31, United States Code. The Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States shall have access to all books, documents, papers, or other records that are pertinent to the activities carried out under this section in order to make audit examinations, excerpts, and transcripts.

"(4) CORRECTIVE ACTIONS.—The one-year work plan (once approved by the Secretary) shall be binding upon the Secretary and the Indian housing authority. The comprehensive plan and any amendments to the comprehensive plan will also be binding, if the plan and any amendments are approved by the Secretary under subsection (c) in the case of authorities that do not meet, or are not making reasonable progress towards meeting, the performance standards. The Secretary may order corrective action only if the Indian housing authority does not comply with paragraph (1), or if a review under paragraph (2) or an audit under paragraph (3) reveals findings that the Secretary determines require corrective action. The Secretary may withhold funds under this section only if the Indian housing authority fails to take corrective action after written notice and a reasonable opportunity to do so. In administering this section, the Secretary shall, to the greatest extent possible, respect the professional judgment of the administrators of the Indian housing authority.

"(i) ELIGIBLE COSTS.—(1) An Indian housing authority may use financial assistance received under this section only—

"(A) to undertake activities described in its approved one-year work plan;

"(B) to correct conditions that constitute an immediate threat to the health or safety of tenants, whether or not the need for correction is indicated in its comprehensive plan or one-year work plan;

"(C) to prepare a comprehensive plan and a one-year work plan, including reasonable costs in connection with public comment, an annual performance and evaluation report, and an audit; and

"(D) to operate Indian housing projects consistent with the requirements that apply to amounts provided under section 206 for the operation of lower income housing projects, except that not more than 20 per centum of the amount received under this section for any authority fiscal year may be so used.

"(2) Financial assistance received under this section may be expended only for allowable costs as determined in accordance with cost determination policies of the Office of Management and Budget applicable to Indian tribal governments, as appropriately modified for application to Indian housing authorities.

"(j)(1) There are authorized to be appropriated, for the purpose of providing financial assistance under this section, such sums as may be necessary for fiscal years 1988, 1989, and 1990.

"(2) Any amount appropriated under this subsection shall remain available until expended.

"AVAILABILITY FOR LOWER INCOME FAMILIES

"SEC. 210. Not more than 25 per centum of the dwelling units available for occupancy under annual contributions contracts entered into under this Act with Indian housing authorities shall be available for leasing by lower income families other than very low-income families.

"DEMOLITION AND DISPOSITION OF INDIAN HOUSING

"SEC. 211. (a) The Secretary may not approve an application by an Indian housing authority for permission, with or without financial assistance under this title, to demolish or dispose of an Indian housing project or a portion of an Indian housing project unless the Secretary has determined that—

"(1) in the case of an application proposing demolition of an Indian housing project or a portion of an Indian housing project, the project or portion of the project is obsolete as to physical condition, location, or other factors, making it unusable for housing purposes, or no reasonable program of modifications is feasible to return the project or portion of the project to useful life; or in the case of an application proposing the demolition of only a portion of a project, the demolition will help to assure the useful life of the remaining portion of the project; or

"(2) in the case of an application proposing disposition of real property of an Indian housing authority by sale or other transfer—

"(A)(i) the property's retention is not in the best interests of the tenants or the Indian housing authority because developmental changes in the area surrounding the project adversely affect the health or safety of the tenants or the feasible operation of the project by the Indian housing authority, because disposition allows the acquisition, development, or rehabilitation of other properties which will be more efficiently or effectively operated as lower income housing projects and which will preserve the total amount of lower income housing stock available in the community, or because of other factors which the Secretary determines are consistent with the best interests of the tenants and Indian housing authority and which are not inconsistent with other provisions of this title; and

"(ii) for property other than dwelling units, the property is excess to the needs of a project or the disposition is incidental to, or does not interfere with, continued operation of a project; and

"(B) except as otherwise provided by this subparagraph, the net proceeds of the disposition will be used for (i) the payment of development cost for the project and for the retirement of outstanding obligations issued to finance original development or modernization of the project, and (ii) to the extent that any proceeds remain after the application of proceeds in accordance with clause (i), the provision of housing assistance for lower income families through such measures as modernization of lower income housing, or the acquisition, development, or rehabilitation of other properties to operate as lower income housing; in the case of an Indian housing project financed under either section 5(a)(2) or section 204(a)(2) of this title, or with respect to which a loan made under sections 4(a) or 203(a) of this title was forgiven under section 4(c) or 203(c), respectively, the net proceeds of the disposition will be used in a manner prescribed by the Secretary in regulations, which shall be comparable (as determined by the Secretary, taking into account that the indebtedness was forgiven or a different financing method was used, as appropriate) to the requirements for the use of such net proceeds applicable to other Indian housing projects under this subparagraph.

"(b) The Secretary may not approve an application or furnish assistance under this section under this title unless—

"(1) the application from the Indian housing authority has been developed in consultation with tenants and tenant councils, if any, who will be affected by the demolition

or disposition and contains a certification by appropriate tribal government officials that the proposed activity is consistent with the applicable housing assistance plan; and

"(2) all tenants to be displaced as a result of the demolition or disposition will be given assistance by the Indian housing authority and are relocated to other decent, safe, sanitary, and affordable housing, which is, to the maximum extent practicable, housing of their choice, including housing assisted under section 8 of this title.

"(c) Notwithstanding any other provision of law, the Secretary is authorized to make available financial assistance for applications approved under this section using available contributions authorized under section 204(c).

"(d) The provisions of this section shall not apply to the conveyance of units in an Indian housing project for the purpose of providing homeownership opportunities for lower income families capable of assuming the responsibilities of homeownership.

"TRANSITION PROVISION

"SEC. 212. All references to sections 3, 4, 5, 6, 9, 11, 12, 14, 16, or 18 in any contract for assistance with an Indian housing authority entered into before the effective date of this title shall be amended to refer to sections 202, 203, 204, 205, 206, 207, 208, 209, 210, and 211, respectively.

"AUDITS: COMPTROLLER GENERAL

"SEC. 213. Every contract for loans or contributions under title II of the United States Housing Act of 1937 shall provide that the Secretary of Housing and Urban Development and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, paper, and records of the Indian housing authority entering into such contract that are pertinent to its operations with respect to financial assistance under title I of this Act.

"RECAPTURE OF FUNDS

"SEC. 214. Any budget authority available for use for Indian housing under this title or under title I that is recaptured shall be available only for Indian housing.";

(2) by inserting the following new title designation after section 1:

"TITLE I—ASSISTED HOUSING".

(b) Section 2 of such Act is amended—

(1) by striking out "Act" wherever it appears and inserting in lieu thereof "title"; and

(2) in the second sentence, by inserting "or her" after "his".

(c) Section 3(a) of such Act is amended by striking out "Act" wherever it appears and inserting in lieu thereof "title".

(d) Section 3(b) of such Act is amended by—

(1) striking out "this Act" the first time it appears and each time it appears in paragraphs (1) and (3) and inserting in lieu thereof "this title"; and

(2) amending paragraph (7) to read as follows:

"(7) the term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.".

(e) Section 4(b) of such Act is amended by striking out "Act" and inserting in lieu thereof "title".

(f) Section 5 of such Act is amended by striking out "this Act" wherever it appears in subsections (c)(4), (d), (e) and (f) and inserting in lieu thereof "this title".

(g) Section 6 of such Act is amended by striking out "Act" in the first sentence of subsection (a) and wherever it appears in subsections (c), (g)(2) and (k) and in the parenthetical in subsection (d)(1) and inserting in lieu thereof "title".

(h) Section 8(f) of such Act is amended by—

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

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(3) by adding the following new paragraphs (4), (5), and (6) to read as follows:

"(4) the term 'public housing agency' includes 'Indian housing authority' as defined under section 203(b)(6) of this Act;

"(5) the term 'public housing' includes 'Indian housing authority' as defined under section 203(b)(6) of this Act;

"(6) the term 'adjusted income' when applied by an Indian housing authority includes, where appropriate, the adjustment for excessive travel expenses as provided for in section 203(b)(5)(D) of this Act.".

(i)(1) Section 213 of the United States Housing Act of 1937 shall not take effect until Congress, by law, establishes criteria for a formula or other allocation method to be used by the Secretary of Housing and Urban Development under section 213 of the United States Housing Act of 1937 to determine—

(A) for each Indian housing authority the amounts necessary to address current needs for capital improvements;

(B) for each authority, the amounts necessary to address the future needs for capital improvements through a replacement reserve; and

(C) the relative needs of authorities of different sizes for the amount described in subparagraphs (A) and (B).

(2) Not later then one year after the date of enactment of this Act, the Secretary shall submit to the Congress a report setting forth—

(A) the proposed method for providing funding for unanticipated or extraordinary emergency needs;

(B) the proposed method of determining the division of funds between current needs and annual accrual of capital improvement needs;

(C) the proposed method of determining amounts to be provided to Indian housing authorities for current needs and for annual accrual of capital improvement needs, which may include a formula for specifying amounts for individual agencies or a method of regional, field office, or other allocations;

(D) an analysis of the objectively measurable data or other information used under subparagraphs (A), (B), and (C), along with a comparison of the proposed allocations to recent previous funding; and

(E) any proposed difference in the method of funding large and small authorities.

(3)(A) Any amount that the Secretary has obligated to an Indian housing authority under sections 5 and 9 of the United States Housing Act of 1937, as it existed immediately before the effective date of this Act, shall be used as provided by sections 205 and 209, respectively.

(B) Any amount that the Secretary has obligated to an Indian housing authority under section 14 of the United States Housing Act of 1937, as it existed immediately before the effective date of this Act, shall be used for the purposes for which amount was provided, or purposes consistent with a one-year work plan submitted by the authority and approved by the Secretary under section 213, as amended by this Act, as the agency considers appropriate.

SECTION-BY-SECTION ANALYSIS

SEC. 1. Title—Indian Housing Act of 1987.

SEC. 2. Addition of Title II to the United States Housing Act of 1937 entitled—TITLE II—ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES.

SEC. 201. Declaration of Policy—to promote the general welfare of Indian tribes by assisting tribes to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income and to invest Indian housing authorities with the maximum amount of responsibility in the administration of their housing programs.

SEC. 202. Defines rental payments to be paid by families based upon 20 per centum of the family's monthly adjusted income, 10 per centum of the family's monthly income or if the family is receiving welfare payments, the amount of payments allowed by the agency for such housing costs. Also, this section provides that any Indian housing authority may establish monthly rental payments that do not exceed a maximum amount that is established by the Indian housing authority and approved by the Secretary.

The Indian housing authority and the Secretary may establish appropriate monthly payments for families under the Mutual Help Homeownership program where such families contribute labor, land, materials, or cash to the development of such projects.

This section provides definitions for lower income housing, lower income families, very low income families, families, income, adjusted income, Indian housing authority, Indian tribe, Secretary, development and other administrative terms as used in this Title.

SEC. 203. Provides the Secretary of the Department of Housing and Urban Development with the authority to make loans or commitments to make loans to Indian housing authorities to help finance or refinance the development, acquisition, or operation of lower income housing projects by such Indian housing authorities.

SEC. 204. Provides that the Secretary of the Department of Housing and Urban Development may make annual contributions to Indian housing authorities to assist in achieving and maintaining the lower income character of their projects. This section establishes procedures the Secretary must follow in providing such annual contributions. On or after October 1, 1987, the Secretary may only make one-time capital contributions to Indian housing authorities to cover the development costs of Indian housing projects. The contract under which such contributions shall be made shall specify the amount of capital contributions required for each project and the period of time (not to exceed forty years) during which the terms and conditions of such contract shall remain in effect. Authority is given to the Secretary to establish regulations to govern the contributions contracts under different circumstances.

SEC. 205. Provides the Secretary with authority to include such convenants, conditions, or provisions as the Secretary may deem necessary to insure the lower income character of the Indian housing project involved. Requires Indian housing authorities to comply with procedures and requirements the Secretary may prescribe to assure

91-059 O-89-35 (Pt. 26)

that sound management practices are followed. This section details such management requirements in areas such as tenant-management relations (rent collections, tenant security, and maintenance, etc.).

This section also provides terms and conditions involving contracts for contributions to Indian housing authorities.

SEC. 206. In addition to the contributions authorized for the purposes specified in Sec. 204 of this title, this section authorizes the Secretary to make annual contributions to Indian housing authorities for the operation of lower income housing projects. The contributions payable under this section shall not exceed the amounts the Secretary determines are required to (A) assure the lower income character of the projects involved, (B) achieve and maintain adequate operating services and reserve funds, and (C) provide funds (in addition to any other operating costs contributions approved by the Secretary under this section) as determined by the Secretary to be required to cover the administrative costs of an Indian housing authority during the development period of a project. Provides authority to the Secretary to enter into contracts for annual contributions to Indian housing authorities that guarantee such annual contributions and provides authority to the Secretary to establish standards for costs of operation and reasonable projections of income, taking into account the character and location of the Indian families served, or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed project. This section provides authority to the Secretary to require audits of an Indian housing authority.

SEC. 207. Provides that obligations issued by an Indian housing authority in connection with lower income housing projects which are secured by a pledge of a loan under any agreement between such Indian housing authority and the Secretary, or by an annual contributions contract between such public housing agency and the Secretary, or by a pledge of both annual contributions under an annual contributions contract and a loan under an agreement between such Indian housing authority and the Secretary, and which bear or are accompanied by a certificate of the Secretary that such obligations are so secured, shall be incontestable in the hands of a bearer, and the full faith and credit of the United States is pledged to the payments of all amounts agreed to be paid by the Secretary as security for such obligations. This section also provides that obligations, including interest thereon, issued by Indian housing authorities in connection with lower income housing projects shall be exempt from all taxation now or hereafter imposed by the United States whether paid by such authorities or by the Secretary. The income derived by such authorities from such projects shall be exempt from all taxation now or hereafter imposed by the United States.

SEC. 208. Provides for labor standards to be incorporated into contracts for loans, contributions, sale, or lease pursuant to this title and that contracts shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operations, of the lower income housing project involved.

SEC. 209. Provides for a comprehensive grant program that would provide Indian housing authorities with a predictable source of funding and, through deregulation, with the flexibility to determine the most appropriate use of available funding, in order to assume the responsibility for improving the physical condition of existing Indian housing projects, upgrading their management and operation, and thereby contributing to their long-term viability and their continued availability to provide decent, safe, and sanitary living conditions for lower income Indian families. The section provides authority to the Secretary to determine allocations for financial assistance and conditions for financial assistance.

SEC. 210. Provides that not more than 25 per centum of the dwelling units available for occupancy under annual contributions contracts pursuant to this Act with Indian housing authorities shall be available for leasing by lower income families other than very low-income families. Low income and very low-income families are defined in section 202. In summary, this section provides for the income mix of families living in an Indian housing project.

SEC. 211. Provides conditions whereby the Secretary may approve an application by an Indian housing authority for permission to demolish or dispose of an Indian housing project or a portion of an Indian housing project.

SEC. 212. Provides for the cross-reference of sections in contracts for assistance with an Indian housing authority to the new sections of this Title. This is provided for the transition period for contracts entered into by an Indian housing authority and the Secretary before the effective date of this title.

SEC. 213. Provides authority to the Secretary of Housing and Urban Development and the Comptroller General of the United States, or designated representatives to gain access for the purpose of audit and examination of any books, documents, papers, and records of the Indian housing authority entering into such contracts that are pertinent to its operations with respect to financial assistance under this Act.

SEC. 214. Provides for the recapture of budget authority available for use under this title or under title I that is recaptured from any Indian housing authority. If such budget authority is recaptured, it shall be available only for Indian housing by such other housing authority that is capable of undertaking the construction of additional units.

This section also provides for the designation of a new title after section 1, as Title I—Assisted Housing, and makes amendments conforming to Title II.●

● Mr. EVANS. Mr. President, today I am pleased to cosponsor legislation that will vastly improve the delivery of housing services to this Nation's American Indian citizens who reside on reservations and trust lands. The legislation that is being introduced today is primarily technical in nature. A few basic and necessary changes are included to address immediate problems in the current Indian housing program. The bill will codify sections in the United States Housing Act of 1937 that are appropriate and relevant to the administration of the Indian housing program and moves them to its own title (II), while retaining the program within the jurisdiction of the Department of Housing and Urban Development and within the 1937 act. I believe that this is an important aspect of this legislation.

Over the past several years it has become increasingly clear to the administrators of the Department of Housisng and Urban [HUD] that the development and management of public housing on Indian reservations is quite different from the development and management of public housing in the Nation's urban areas. The Indian and Alaska Native housing programs, rental and ownership, are characterized by single family detached units, a homogeneous population, and remote rural locations.

Currently, the 1937 Housing Act and its amendments do not recognize the critical differences between public and Indian housing. Although most amendments to the 1937 act were intended to improve the public housing programs, they had the effect of complicating the Indian housing programs. At their worst, the Housing Act amendments demand time-consuming regulatory and handbook interpretations that were developed before Indian field offices and Indian housing authorities [IHA's] can respond appropriately to proposed changes.

It is well documented that problems associated with the administration of the Indian housing programs are numerous, complex, and difficult. Simplification of the entire Indian housing program is a must if HUD and the IHA's are to efficiently manage their responsibilities. Many proposals have been made to Congress and the administration regarding the improvement of the Indian housing delivery system. Few have been seriously considered and changes are slow in coming.

When the Select Committee on Indian Affairs circulated the draft legislation throughout Indian country this past summer, the response from Indian tribal governments, Indian housing authorities and national Indian organizations was overwhelmingly in favor of the legislation that we are introducing today. I look forward to working with the Committee on Banking, Housing, and Urban Affairs so that this legislation can move as swiftly as possible in the next session of Congress.●

By Mr. BREAUX:

S. 1988. A bill making amendments to the Merchant Marine Act of 1920; to the Committee on Commerce, Science, and Transportation.

MERCHANT MARINE ACT AMENDMENTS

● Mr. BREAUX. Mr. President, the legislation that I am introducing regarding which my distinguished chairman of the Commerce Committee has promised hearings next month upon

our return. I am indebted to him for his commitment to early hearings on the measure. My bill is nearly identical to H.R. 82, the sludge barge bill, as it passed the House and was later amended last week by the House Merchant Marine and Fisheries Committee under the leadership of my colleague from Louisiana, Congressman BILLY TAUZIN, and added to H.R. 3767, the South Pacific Tuna Treaty legislation.

My bill differs in only one respect from the version contained in H.R. 3767 in as much as it simply clarifies that the legislation also covers dredge material removed from and redeposited between any two points within the exclusive economic zone. My bill, as does H.R. 3767, grandfathers foreign built launch barges, extant or under construction with the carrying capacity of 12,000 long tons or more, for use on the U.S. Outer Continental Shelf. Mr. President, I am looking forward to January 1988 hearings and subsequent action on this urgent and necessary legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my statement.

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

S. 1988

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. That Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) is amended—

(1) in the first sentence—

(A) by striking "Treasury" and inserting "Treasury, or, in the case of valueless material, the actual cost of the transportation"; and

(B) by striking the colon, inserting a period, and adding "For purposes of this section, 'merchandise' includes valueless material."; and

(2) at the end, by striking the period, inserting a colon, and adding the following:

"Provided further, That this section applies to the transportation of valueless material, and any dredged material regardless of whether it has commercial value, from a point or place in the United States, or a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983, to another point or place in the United States or, to a point or place on the high seas within that Exclusive Economic Zone. Provided further, That the transportation of any platform jacket in or on a launch barge shall not be deemed transportation subject to this section if the launch barge has a carrying capacity of 12,000 long tons or more, was built or under construction as of the date of enactment of this proviso, and is documented under the laws of the United States, and the platform jacket cannot be transported on and launched from a barge of lesser capacity."

SEC. 2. Section 4370(a) of the Revised Statutes of the United States (46 App. U.S.C. 316(a)) is amended by inserting at the end the following:

"This section applies to the towing of a vessel transporting valueless material, and any dredged material, regardless of whether it has commercial value, from a point or place in the United States or a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983, to another point or place in the United States or a point or place on the high seas within that Exclusive Economic Zone."

SEC. 3. A vessel may transport municipal sewage sludge to a deepwater disposal site designated by the Administrator of the Environmental Protection Agency under the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401-1444) if that vessel is documented under the laws of the United States and that vessel—

(1) is under construction for use by a municipality for the transportation of sewage sludge on the date of enactment of this Act; or

(2) is under contract with a municipality for the transportation of sewage sludge on the date of enactment of this Act.

SEC. 4. For purposes of the first paragraph of section 805(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1233(a)), a vessel described in section 3(2) of this Act is not a vessel engaged in domestic intercoastal or coastwise service, but the prohibitions in the second paragraph apply to that vessel.

SEC. 5. Notwithstanding another law, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation under section 12106 of title 46, United States Code, endorsed to restrict the use of a vessel to which such a certificate is issued to the transportation of valueless material in the coastwise trade, to a vessel that—

(1) is engaged in transporting only valueless material in the coastwise trade;

(2) had a certificate of documentation issued under section 12105 of that title on October 1, 1987;

(3) had been sold foreign or placed under a foreign registry before that certificate was issued; and

(4) was built in the United States.●

By Mr. BREAUX:

S. 1989. A bill entitled the "South Pacific Tuna Act of 1987"; to the Committee on Commerce, Science, and Transportation.

SOUTH PACIFIC TUNA ACT

● Mr. BREAUX. Mr. President, I am pleased to have the opportunity to introduce, on behalf of the State Department, legislation to implement for the United States, the "Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America." As you know, I lent my strong endorsement to the Senate consent necessary to ratify this treaty earlier this year in November. By providing U.S. tuna fishermen access to fishing grounds throughout the South Pacific through a regional licensing program, the treaty represents an important reaffirmation of U.S. tuna policy and the commitment of the U.S. Government to working closely and cooperatively with the many governments of this region.

For the record, I remain a strong proponent and advocate of the U.S. juridical position that, due to their highly migratory nature, tuna cannot be effectively conserved or managed on a unilateral basis. Instead, such conservation and management must be addressed on a cooperative, multilateral basis throughout the range of the species. The legislation I am introducing today will ensure that this policy is reiterated and extended to the management of 10 million square miles of what may be the richest of tuna fishing grounds in the world.

Furthermore, Mr. President, the Pacific island nations very much desire and deserve the opportunity to improve their economies and standard of living. It is clearly appropriate and wholly consistent with U.S. foreign policy to assist these nations to achieve their long-term goals of economic stability and independence—particularly in light of the political maneuvers the Soviet Union has already made in the region, and in light of the economic benefits to the U.S. tuna industry. Clearly, the treaty and this implementing legislation have profound economic and political significance for U.S. policy and industry in the South Pacific region.

Mr. President, I ask for the support and cosponsorship by my colleagues of this important legislation. I also look forward to having hearings in the Commerce, Science, and Transportation Committee as soon as is possible upon our return in January 1988.

Mr. President, I ask unanimous consent that the text of the bill and the section-by-section analysis of the bill be printed in the RECORD immediately following my statement.

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

S. 1989

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "South Pacific Tuna Act of 1987".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) The term "Administrator" means the person or organization designated by the Pacific Island Parties to act on their behalf under the Treaty and notified to the United States Government.

(2) The term "Authorized Officer" means any officer who is authorized by the Secretary, or the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with the Secretary under section 11(a) to enforce the provisions of this Act.

(3) The term "Authorized Party Officer" means any officer authorized by a Pacific Island party to enforce the provisions of the Treaty.

(4) The term "applicable national laws" means those laws as described in paragraph 1(a) of Annex I of the Treaty.

(5) The term "Closed Area(s)" means those areas so identified in Annex I, Schedule 2 of the Treaty.

(6) The term "fishing" means—

(A) searching for, catching, taking, or harvesting fish;

(B) attempting to search for, catch, take, or harvest fish;

(C) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish;

(D) placing, searching for or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(E) any operations at sea directly in support of, or in preparation for any activity described in this paragraph; or

(F) aircraft use, relating to the activities described in this paragraph except for flights in emergencies involving the health or safety of crew members or the safety of a vessel.

(7) The term "fishing vessel" or "vessel" means any boat, ship, or other craft which is used for, equipped to be used for, or of a type normally used for commercial fishing, and which is documented under the laws of the United States.

(8) The term "Licensing Area" means all waters in the Treaty Area except for:

(A) those waters subject to the jurisdiction of the United States in accordance with international law; and

(B) those waters closed to fishing by United States vessels as set forth in Annex I, Schedule 2 of the Treaty.

(9) The term "licensing period" means the period of validity of licenses issued in accordance with the Treaty.

(10) The term "Limited Area(s)" means those area(s) so identified in Annex I, Schedule 3 of the Treaty.

(11) The term "operator" means any person who is in charge of, directs or controls a vessel, including the owner, charterer and master.

(12) The term "Pacific Island Party" means a Pacific Island nation which is a party to the Treaty.

(13) The term "Party" means a nation which is a party to the Treaty.

(14) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized, or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(15) The term "Secretary" means the Secretary of Commerce, or the designee of the Secretary of Commerce.

(16) The term "State" means each of the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam and any other Commonwealth, territory, or possession of the United States.

(17) The term "Treaty" means the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed in Port Moresby, Papua New Guinea, April 2, 1987, and its Annexes, Schedules, and implementing agreements.

(18) The term "Treaty Area" means all waters north of 60 degrees South Latitude and east of 90 degrees East Longitude, subject to the fisheries jurisdiction of Pacific Island parties, and all other waters within rhumb lines connecting the following geographic coordinates, designated for the purposes of the Treaty, except for waters subject to the jurisdiction in accordance with international law of a nation which is not a party to the Treaty:

2°35'39"S	141°00'00"E
1°01'35"N	140°48'35"E
1°01'35"N	129°30'00"E
10°00'00"N	129°30'00"E
14°00'00"N	140°00'00"E
14°00'00"N	142°00'00"E
12°30'00"N	142°00'00"E
12°30'00"N	158°00'00"E
15°00'00"N	158°00'00"E
15°00'00"N	165°00'00"E
18°00'00"N	165°00'00"E
18°00'00"N	174°00'00"E
12°00'00"N	174°00'00"E
12°00'00"N	176°00'00"E
5°00'00"N	176°00'00"E
1°00'00"N	180°00'00"
1°00'00"N	164°00'00"W
8°00'00"N	164°00'00"W
8°00'00"N	158°00'00"W
0°00'00"	150°00'00"W
6°00'00"S	150°00'00"W
6°00'00"S	146°00'00"W
12°00'00"S	146°00'00"W
26°00'00"S	157°00'00"W
26°00'00"S	174°00'00"W
40°00'00"S	174°00'00"W
40°00'00"S	171°00'00"W
46°00'00"S	171°00'00"W
55°00'00"S	180°00'00"
59°00'00"S	160°00'00"E
59°00'00"S	152°00'00"E

and north along the 152 degrees of East Longitude until intersecting the Australian 200 nautical mile limit.

SEC. 3. APPLICATION TO OTHER LAWS.

The seizure by a Pacific Island Party of a vessel of the United States shall not be considered to be a seizure described in section 205(a)(4)(C) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1825(a)(4)(C)) or the Fishermen's Protective Act of 1967 (22 U.S.C. 1874) if the seizure is in accordance with the provisions of the Treaty.

SEC. 4. REGULATIONS.

The Secretary of Commerce, with the concurrence of the Secretary of State and after consultation with the Secretary of the Department in which the Coast Guard is operating, shall issue regulations as may be necessary to carry out the purposes and objectives of the Treaty and this Act. These regulations shall be made applicable as necessary to all persons and vessels subject to the jurisdiction of the United States, wherever located.

SEC. 5. PROHIBITED ACTS.

(a) It is unlawful for any person subject to the jurisdiction of the United States—

(1) to violate any provision of this Act or any regulation, license, or order issued pursuant to this Act;

(2) to use a vessel for fishing in violation of applicable national laws;

(3) who is a party to a fishing arrangement under Article 3 paragraph 3 of the Treaty to violate the terms and conditions of any fishing arrangement if the arrangement has received the concurrence of the Secretaries of State and Commerce pursuant to section 18 of this Act;

(4) to use a vessel for fishing in any Limited Area in violation of any requirements in Annex I, Schedule 3 of the Treaty;

(5) to use a vessel for fishing in any Closed Area;

(6) to falsify any information required to be reported, notified, communicated or recorded pursuant to a requirement of this Act, or to fail to submit any required information, or fail to report to the Secretary immediately any change in circumstances which has the effect of rendering any such information false, incomplete or misleading;

(7) to intentionally destroy evidence which could be used to determine if a violation of this Act or the Treaty has occurred;

(8) to refuse to permit any Authorized Officer or Authorized Party Officer to board a fishing vessel for purposes of conducting a search or inspection in connection with the enforcement of this Act, the Treaty, or any regulation or license issued thereunder;

(9) to refuse to comply with the instructions of an Authorized Officer or Authorized Party Officer relating to fishing activities under the Treaty;

(10) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any Authorized Officer or Authorized Party Officer in the conduct of a search or inspection described in subparagraph (8) above, or an observer under the Treaty in the conduct of his duties;

(11) to resist a lawful arrest for any act prohibited by this section;

(12) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section; or

(13) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or the Treaty, with the knowledge that the fish were so taken or returned.

(b) It is unlawful for any person subject to the jurisdiction of the United States when in the Licensing Area—

(1) to use a vessel to fish unless validly licensed as required by the Administrator;

(2) to use a vessel for directed fishing for southern bluefin tuna or for fishing for any kinds of fish other than tunas, except that fish may be caught as an incidental bycatch;

(3) to use a vessel for fishing by any method, except the purse-seine method;

(4) to use any vessel to engage in fishing after the revocation of its license, or during the period of suspension of an applicable license;

(5) to operate a vessel in such a way as to disrupt or in any other way adversely affect the activities of traditional and locally based fishermen and fishing vessels;

(6) to use a vessel to fish after the Secretary has made a finding under section 10 that fishing should not continue; or

(7) except for circumstances involving force majeure and other emergencies involving the health or safety of crew members or the safety of the vessel, to use aircraft in association with the fishing activities of a vessel unless it is identified on the license application form or its supplements.

SEC. 6. EXCEPTIONS.—(a) Vessels used for fishing for albacore tuna by the trolling method outside of the 200 nautical mile fisheries zones of the Pacific Island Parties are exempt from the prohibitions of section 5 and the licensing requirements of section 9.

(b) Vessels fishing under the terms and conditions of an arrangement which has been reached under Article 3 paragraph 3 of the Treaty and which has the concurrence of the Secretaries of State and Commerce pursuant to section 18 of this Act are exempt from the prohibitions of section 5(a)(4), 5(a)(5), and 5(b)(3).

SEC. 7. CRIMINAL OFFENSES.

(a) OFFENSE.—A person is guilty of a criminal offense if he or she commits any act prohibited by section 5(a)(8), (10), (11), or (12).

(b) PUNISHMENT.—Any offense described in section 7(a) is punishable by a fine of not

more than $50,000, or imprisonment for not more than six months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any Authorized Officer, Authorized Party Officer or observer under the Treaty in the conduct of their duties, or places any such person in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than ten years, or both.

(c) JURISDICTION.—The Federal District Courts shall have jurisdiction over any offense described in this section.

SEC. 8. CIVIL PENALTIES.

(a) ASSESSMENT OF PENALTY.—Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 5 of this Act, shall be liable to the United States for a civil penalty. Before issuing a notice of violation, the Secretary shall consult with the Secretary of State. The amount of the civil penalty shall be determined in accordance with considerations set forth in the Treaty and shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay and such other matters as justice may require. Except for those acts prohibited by section 5(a)(4), (5), (7), (8), (10), (11), and (12), or section 5(b)(1), (2), (3), and (7), the amount of the civil penalty shall not exceed $250,000 for each violation. Upon written notice, the Secretary of State shall have the right at any time to participate in any proceeding initiated to assess a civil penalty for violation of this Act.

(b) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the United States district court for the appropriate district by filing a complaint in such court within 30 days from the date of the order and by simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General of the United States and the appropriate United States Attorney. The Secretary shall promptly file in the court a certified copy of the record upon which the violation was found or the penalty imposed. The findings and order of the Secretary shall be set aside or modified by the court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(c) ACTION UPON FAILURE TO PAY ASSESSMENT.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, and the subject vessel fails to leave the Licensing Area, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. The matter shall not be referred to the Attorney General for collection if the subject vessel had a valid license in accord with the Treaty at the time of the violation, and within 60 days of the final penalty assessment, leaves and remains outside of the Licensing Area until the final penalty assessed has been paid. This exception from referral shall not apply to violations of sections 5(a)(10), (11), and (12). In addition, the Secretary of State shall not forward license applications for additional licenses for the subject vessel until any civil penalty assessed has been paid.

(d) *In Rem* JURISDICTION.—Subject to the provisions of subsection (c) above, a fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 5 shall be liable *in rem* for any civil penalty assessed for the violation under section 8 and may be proceeded against in any district court of the United States having jurisdiction thereof. The penalty shall constitute a maritime lien on the vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(e) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary, in consultation with the Secretary of State, may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(f) SUBPOENAS.—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon a person pursuant to this subsection, the district court of the United States for any district in which the person is found, resides, or transacts business, upon application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey the order of the court may be punished by the court as a contempt thereof.

SEC. 9. LICENSES.

(a) Licenses to fish in the Licensing Area may be requested from the Secretary by operators of vessels, under requirements and procedures established by the Secretary. The license application shall designate an agent for the service of legal process to be located in Port Moresby. The applicant shall ensure that the designated agent for service of process, acting on behalf of the licensee, will receive and respond to any legal process issued in accordance with the Treaty and will, within 21 days of notification, travel if necessary for this purpose to any Pacific Island Party at no expense to that Party.

(b) The Secretary shall forward license applications to the Secretary of State for transmittal to the Administrator for a license on behalf of a vessel which has submitted a complete application form and the required fees except as provided in paragraphs (e) and (f) below.

(c) License Numbers and Fees:

(1) In the initial year of implementation, 40 vessel licenses shall be made available at $50,000 each. Ten additional licenses in the initial year shall be made available at $60,000 each, and more may be made available in accordance with the Treaty.

(2) In subsequent years, vessel licenses shall be made available in accordance with the Treaty.

(d) Licenses shall be valid for the licensing period specified by the Administrator.

(e) The Secretary may establish a system of allocating licenses in the event more applications are received than there are licenses available.

(f) For the initial year of implementation, license applications and fees totaling at least $1,750,000 must be received by the Secretary before any license applications will be forwarded to the Secretary of State for transmittal to the Administrator. For subsequent years the same procedures will be followed with no minimum total amount.

(g) The Secretary, in consultation with the Secretary of State, may determine that a license application should not be forwarded to the Administrator for one of the following reasons:

(1) where the application is not in accordance with the requirements of the Secretary or the Treaty;

(2) where the owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, unless reasonable financial assurances have been provided to the Secretary;

(3) where the owner or charterer has not established to the satisfaction of the Secretary that the fishing vessel is fully insured against all risks and liabilities normally provided in maritime liability insurance;

(4) where the owner or charterer has not paid any penalty which has become final, assessed by the Secretary in accordance with this Act.

SEC. 10. FINDINGS BY THE SECRETARY.

(a) Following any investigation conducted in accordance with section 11(b), the Secretary with the concurrence of the Secretary of State, and upon the request of a Pacific Island Party, may order a fishing vessel to leave immediately all, or portions, of, the Licensing Area, Limited Areas, or Closed Areas upon making a finding,

(1) that the fishing vessel which has not submitted to the jurisdiction of the Pacific Island Party concerned:

(A) while fishing in the Licensing Area did not have a license to fish in the Licensing Area, except in accordance with paragraph 2 of Article 3 of the Treaty;

(B) was involved in any incident in which an Authorized Officer, Authorized Party Officer, or observer was allegedly assaulted with resultant bodily harm, physically threatened, forcefully resisted, refused boarding or subjected to physical intimidation or physical interference in the performance of duties as authorized by this Act or the Treaty;

(C) is being investigated by a Party for any infringement of the Treaty provided that the investigating Pacific Island Party notifies the Secretary of State and all other Parties;

(D) has not made full payment within sixty days of any amount due as a result of a final judgment or other final determination deriving from a violation in waters within the Treaty Area of a Pacific Island Party;

(E) was not represented by an agent for service of process in accordance with the Treaty; or

(2) that there is probable cause to believe that a fishing vessel which has not submitted to the jurisdiction of the Pacific Island Party concerned:

(A) was used for fishing in waters closed to fishing pursuant to Annex I of the Treaty, except as authorized in accordance with paragraph 3 of Article 3 of the Treaty;

(B) was used for fishing in any Limited Area as described in Annex I of the Treaty, except as authorized in accordance with that Annex;

(C) was used for fishing by any method other than the purse seine method, except in accordance with paragraph 2 of Article 3 of the Treaty;

(D) was used for directed fishing for southern bluefin tuna or for fishing for any kinds of fish other than tunas, except that fish may be caught as an incidental by-catch;

(E) used an aircraft for fishing which was not identified on a form provided pursuant to Schedule 1 of Annex II in relation to that vessel; or

(F) was involved in an incident in which evidence which otherwise could have been used in proceedings concerning the vessel has been intentionally destroyed;

(b) Upon issuing an order under this section the Secretary must give the owner a reasonable opportunity, not longer than 10 days from service of notice, to respond in writing or otherwise. If an order is issued under subsection (a)(1)(A), (a)(1)(B) or (a)(2) of this section a hearing respecting the violation at issue must be held within 30 days. The Secretary shall rescind any order issued under subsections (a)(1)(D) or (E) upon compliance with the applicable requirements.

(c) All orders issued in accordance with this section are final and not subject to judicial appeal.

(d) Upon a request by the Secretary, the Attorney General shall commence a civil action for appropriate relief, including permanent or temporary injunction, to enforce any order issued by the Secretary under this section.

SEC. 11. ENFORCEMENT.

(a) RESPONSIBILITY.—The provisions of this Act shall be enforced by the Secretary in cooperation with the Secretary of State. The Secretary, after consultation with the Secretary of State, may by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency and of any State agency in the performance of these duties.

(b) PACIFIC ISLAND PARTY INVESTIGATION REQUESTS.—The Secretary shall, at the request of the Government of a Pacific Island Party made to the Secretary of State, fully investigate any alleged infringement of the Treaty involving a vessel of the United States, and report as soon as practicable, and in any case within two months, to that Government through the Secretary of State on any action taken or proposed by the Secretary in regard to the alleged infringement.

(c) SEQUENCE OF PROSECUTION.—Prior to instituting any legal proceedings under this Act for those types of actions which are also covered by Article 4 of the Treaty and which concern alleged infringements of the Treaty in waters within the jurisdiction of a Pacific Island Party, the Secretary, through the Secretary of State, shall notify the Government of the Pacific Island Party in accordance with Article 4.8 of the Treaty that the proceedings will be instituted. Such notice shall include a statement of the facts believed to show an infringement of the Treaty and the nature of the proposed proceedings, including the proposed charges and the proposed penalties to be sought. The Secretary shall not institute such proceedings if the Government of the Pacific Island Party objects within 30 days of the effective date of the notice. The Secretary, through the Secretary of State, shall promptly notify the Pacific Island Party exercising jurisdiction over the waters involved in such a legal proceeding of the outcome of the proceedings.

(d) POWERS OF AUTHORIZED OFFICERS.—

(1) Any Authorized Officer may—

(A) with or without a warrrant or other process—

(I) arrest any person, if he has reasonable cause to believe that the person has committed any act subject to prosecution under Section 7;

(II) board, and search or inspect, any fishing vessel which is subject to the provisions of this Act; or

(III) seize samples of fish or items for evidence (other than the vessel or its fishing gear or equipment) related to any violation of any provision of this Act;

(IV) order a vessel into port for investigation when an investigation has been requested by a Pacific Island Party in accordance with the Treaty.

(B) execute any warrant or other process issued by any court of competent jurisdiction;

(C) exercise any other lawful authority; and

(D) investigate alleged violations of the Treaty to the same extent authorized to investigate alleged violations of this Act.

(2) Authorized officers shall exercise their powers under section 11(d)(1)(A) (II), (III), and (IV) as much as possible so as not to interfere unduly with the lawful operation of the vessel.

(3) Nothing in this Act shall be construed to limit the enforcement of this or other applicable federal laws under 14 USC 89.

(e) JURISDICTION OF COURTS.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act.

SEC. 12. REPORTING.

(a) Holders of licenses shall comply with the reporting requirements of part 4 of Annex I to the Treaty.

(b) Information provided by license holders in Schedules 5 and 6 of Annex I of the Treaty shall be provided to the Secretary for transmittal to the Administrator and to an entity designated by the license holder. Such information thereafter shall not be released and shall be maintained as confidential by the Secretary, including information requested under the Freedom of Information Act, unless disclosure is required under court order or unless the information is essential for an enforcement action under sections 5, 10, or 11(b) and 11(c), or any other proper law enforcement action.

SEC 13. CLOSED AREA STOWAGE REQUIREMENTS.

At all times while a vessel is in a Closed Area, the fishing gear of the vessel shall be stowed in such a manner as not to be readily available for fishing. In particular, the boom shall be lowered as far as possible so that the vessel cannot be used for fishing, but so that the skiff is accessible for use in emergency situations; the helicopter, if any, shall be tied down; and launches shall be secured.

SEC. 14. OBSERVERS.

(a) The operator and each member of the crew of the vessel shall allow and assist any person identified as an observer by the Pacific Island Parties to—

(1) board the vessel for scientific, compliance, monitoring and other functions at the point and time notified by the Pacific Island Parties to the Secretary;

(2) have full access to and use of facilities and equipment on board the vessel which the observer may determine are necessary to carry out his duties; have full access to the bridge, fish on board and areas which may be used to hold, process, weigh and store fish; remove samples; have full access to the vessel's records, including its log and documentation for the purpose of inspection and copying; and gather any other information relating to fisheries in the Licensing Area; without interfering unduly with the lawful operation of the vessel;

(3) disembark at the point and time notified by the Pacific Island Parties to the Secretary; and

(4) enable the observer to carry out his duties safely;

and shall not assault, obstruct, resist, delay, refuse boarding to, intimidate, or interfere with an observer in the performance of his duties.

(b) The operator shall provide the observer, while on board the vessel, at no expense to the Pacific Island Parties, with food, accommodation and medical facilities of such reasonable standard as may be acceptable to the Pacific Island Party whose representative is serving as the observer.

(c) Any operator of the vessel from which any fish taken in the Licensing Area is unloaded shall allow, or arrange for, and assist any person authorized for this purpose by the Pacific Island Parties to have full access to any place where such fish is unloaded, to remove samples and to gather any other information relating to fisheries in the Licensing Area.

SEC. 15. TECHNICAL ASSISTANCE.

The United States tuna industry shall provide $250,000 annually in technical assistance, including provision of assistance by technicians, in response to requests coordinated through the Administrator. The Secretary of State shall designate an entity to coordinate the provision of such technical assistance as provided by the United States tuna industry and to provide an annual report to the Secretary of State regarding the provision of such technical assistance.

SEC. 16. ARBITRATION.

The Secretary of State, in consultation with the Secretary of Commerce, shall appoint an arbitrator to act as a member of the dispute tribunal, as provided by the Treaty.

SEC. 17. DISPOSITION OF FEES, PENALTIES, FORFEITURES, AND OTHER MONEYS.

To the extent required by Article 4 of the Treaty, an amount equivalent to the total value of any fine, penalty, or other amount collected as a result of any action, judicial or otherwise, pursuant to sections 7 and 8 shall be paid by the United States through the Secretary of State to the Administrator as soon as reasonably possible following the date that such amount is collected.

SEC. 18. ADDITIONAL AGREEMENTS.

Within 30 days of the Secretary of State's receipt of notice from a Pacific Island Party that it has concluded an arrangement pursuant to Article 3, paragraph 3, of the Treaty, the Secretary of State shall consult with the Secretary concerning whether the procedures of Article 4 and 5.6 of the Treaty should be made applicable to such arrangement. At the conclusion of the consultations the Secretary of State shall notify the Pacific Island Party and all other parties to the arrangement in question of the decision he has made.

SEC. 19. SECRETARY OF STATE TO ACT FOR THE UNITED STATES.

The Secretary of State is authorized to receive on behalf of the United States reports, requests, and other communications from the Administrator and to act thereon directly or by reference to the appropriate au-

thorities. The Secretary of State, after consultations with the Secretary, may accept or reject, on behalf of the United States, changes or amendments to Annex I of the Treaty and its Schedules and Annex II to the Treaty and its Schedules.

SEC. 20. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated for fiscal years 1988, 1989, 1990, 1991, and 1992 such sums as may be necessary for carrying out the purposes and provisions of the Treaty and this chapter including—

(1) for fiscal years 1988, 1989, 1990, 1991, and 1992, there is authorized an amount not to exceed $350,000 annually to the Department of Commerce for administrative expenses; and

(2) for fiscal years 1988, 1989, 1990, 1991, and 1992, there is authorized an amount not to exceed $50,000 annually to the Department of State for administrative expenses.

(b) Funds appropriated for the purposes of this Treaty may be used notwithstanding any of the provisions of the Foreign Assistance Act of 1961, as amended, or of any appropriations Act that imposes restrictions on the maintenance or use of cash transfer assistance, which are inconsistent with the provisions of this Treaty.

SEC. 21. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b) this Act shall be effective on the date on which the Treaty enters into force for the United States.

(b) ISSUANCE OF REGULATIONS.—

(1) IN GENERAL.—The authority to promulgate regulations pursuant to this Act shall be effective on the date of enactment of this Act.

(2) EFFECTIVE DATE OF REGULATIONS.—Any regulation promulgated pursuant to this Act shall not be effective before the effective date of the provision of this Act under which the regulation is prescribed.

SOUTH PACIFIC TUNA ACT OF 1987

Section Two defines terms used in this Act.

Section Three describes how seizures of U.S. vessels made by Pacific Island Parties in accordance with the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America (the Treaty) relate to the Magnuson Fishery Conservation and Management Act and the Fishermen's Act.

Section Four provides authority for the Secretary of Commerce, with the concurrence of the Secretary of State, to issue regulations necessary to carry out the purpose and objective of the Treaty and this Act.

Section Five lists prohibited acts under the Treaty. These include fishing in violation of any requirements of the Treaty, falsification of information and refusal to comply with or resistance to enforcement actions taken under the terms of the Treaty.

Section Six lists exceptions to the prohibitions of Section Five and the licensing provisions of Section Nine.

Section Seven sets forth criminal penalties for violation of this Act. Criminal offenses include resistance to or failure to comply with enforcement actions under the Treaty. These are punishable by fines of not more than $50,000 or imprisonment of not more than six months, or both.

Section Eight sets forth civil penalties for violation of this Act. It provides that before issuing a notice of violation the Secretary of Commerce shall consult with the Secretary of State. All acts prohibited under Section Five are subject to civil penalties. Determination of the civil penalty shall be made in accordance with considerations set forth in the Treaty and other factors such as the gravity of the offense, history of prior offenses, etc. In regard to certain more serious offenses penalties may exceed $250,000. The Secretary of State shall have the right to participate in any proceeding initiated to assess a civil penalty.

Section Nine sets forth procedures for applying for fishing licenses under the Treaty. Fishing licenses will be purchased by U.S. tuna vessel operators. In the first year of Treaty implementation, 40 licenses will be made available at $50,000 each and ten additional licenses will be made available at $60,000 each. For the first year of the treaty, fees totalling at least $1,750,000 must be paid before any licenses will be issued. In future years, the Treaty provides for escalation of license prices indexed to the price of tuna and there will be no minimum number of licenses to be purchased.

Section Ten outlines findings by the Secretary of Commerce, with the concurrence of the Secretary of State, which may result in U.S. fishing vessels being ordered to immediately leave all or part of the Treaty Area.

Section Eleven describes enforcement actions which may be taken by the Secretary of Commerce in cooperation with the Secretary of State. The Secretary of Commerce will be obliged to fully investigate any alleged infringement of the Treaty involving a vessel of the United States upon the request of a Pacific Island party to the Treaty.

Section Twelve provides the authority for requiring U.S. fishermen to report as required by the Treaty.

Section Thirteen describes requirements for gear stowage in areas closed to fishing under the Treaty.

Section Fourteen describes the obligation of licensed fishing vessels to host, assist and cooperate with observers of Pacific Island parties.

Section Fifteen outlines the obligations of the U.S. tuna industry to annually provide technical assistance valued at $250,000 to the Pacific Island states party to the Treaty.

Section Sixteen provides authority for the Secretary of State to appoint an arbitrator to act as a member of the dispute tribunal as provided by the Treaty.

Section Seventeen states that, to the extent required by the Treaty, monies collected under Sections Seven and Eight of the Act shall be paid to the Treaty Administrator as soon as practicable following collection.

Section Eighteen describes the procedure for including additional fishing arrangements between U.S. vessel operators and Pacific Island States.

Section Nineteen authorizes the Secretary of State to act on behalf of the United Sates and to accept or reject changes or amendments to the Treaty's Annexes or Schedules.

Section Twenty authorizes the appropriation of funds to carry out this Act and authorizes Economic Support Funds which are used for the purposes of the Treaty to be made available notwithstanding certain provisions of law which might be inconsistent with the Treaty obligations.

Section Twenty-one provides that the effective date of this Act will be when the Treaty enters into force for the United States.●

By Mr. STAFFORD (for himself, Mr. BAUCUS, Mr. CHAFEE, Mr. MITCHELL, and Mr. DURENBERGER):

S. 1990. A bill entitled the "Global Environmental Protection Act of 1987"; to the Committee on Environment and Public Works.

GLOBAL ENVIRONMENTAL PROTECTION ACT

● Mr. STAFFORD. Mr. President, sometime today, the President will transmit the Montreal Protocol on Substances that Deplete the Ozone Layer to the Senate for approval. The agreement is a remarkable achievement and should be promptly approved by the Senate.

Remarkable as it may be, however, the protocol falls short of committing the United States and the other nations of the world to the actions which must be taken to deal with global climate change and ozone shield depletion. I say this for three reasons:

First, the Montreal Protocol is designed to deal only with the issue of destruction of the global ozone shield.

For this purpose it proposes a reduction in the production and emissions of freons of 50 percent. However, an analysis conducted by the Office of Technology Assessment indicates the protocol could have a range of outcomes. The very best of these—assuming approval by every nation in the world, the most stringent interpretation and enforcement of its terms, and unrealistically low growth in the use of CFC's—achieves a reduction of 45 percent. Under more realistic assumptions, OTA estimates that freon use could actually increase by 20 percent. Thus, the protocol is inadequate in terms of achieving the stated goal of a 50-percent cut.

But more importantly, the protocol fails to take into account reductions which must be achieved to deal with the hole in the ozone layer over the Antarctic. Until recently, this area of depletion has been described as a springtime hole, but that is no longer accurate. It is now summer in the Antarctic and the hole has yet to close, as articles in both the New York Times and the Washington Post reported on Saturday. If there is no objection, Mr. President, I would ask that copies of these articles be printed in the RECORD at the conclusion of my remarks, together with a summary of the OTA analysis.

Finally, Mr. President, no international agreement attempting to deal with just ozone shield destruction will be adequate to cope with the other global environmental threat, which is climate change.

For these reasons, Mr. President I am introducing a proposal which would take the first step toward addressing both of these problems, as well as others, in a coordinated fashion. I am very pleased that Senators

BAUCUS, CHAFEE, MITCHELL, and DURENBERGER are also sponsoring the bill, because in any list of leaders on these issues their names would be bound to appear.

This bill is just a start, and I hope that when the second session of the 100th Congress convenes we can introduce a bill which would set us on the road of specific actions.

Mr. BAUCUS. Mr. President, I agree with what the Senator from Vermont is trying to do and share his hope that in another month we can place some specific suggestions before the Senate.

I said just last week that the time had arrived for the Congress to consider specific regulatory policies and hope that he and I and others can work toward developing such a proposal.

Mr. CHAFEE. That is a sentiment I share. I'm not certain exactly what must be done but it is incumbent on the United States to take a leadership role. Among other things, we could certainly finish what was started with the Montreal Protocol and commit the world to reductions of these chemicals that go beyond 50 percent. As I have said before, virtual elimination of these harmful chemicals should be our goal.

But we can't stop there. We should also start doing what we can to reduce gases other than the ozone depleters. Why can't we put a limit on emissions of carbon dioxide, for example?

Mr. STAFFORD. I think we can. Speaking only for myself, I see no reason why this Nation could not commit itself to cutting CO_2 emissions by 50 percent in the next several years. There are already cars which can get 95 miles to the gallon.

Mr. MITCHELL. Well, whether increasing the mileage requirements for cars is the answer or not, greater efficiency would certainly solve more than one of our problems. Reducing carbon dioxide by increasing the efficiency of powerplants would cut down on emissions of sulphur dioxide, which would help solve the acid rain problem. Not that taking any of these actions would be easy, but I don't see how we can expect to find the right solutions until we start the search for answers.

Mr. BAUCUS. That's right. We're all in this together, no matter what kind of fuel we use or car we drive. And the United States can't solve this problem by itself. It will require international agreement that there is a problem and that it is enough of a threat to warrant changes in our lifestyles.

Mr. CHAFEE. I think that there is already an emerging consensus on this subject. This time last year the Soviet Premier wrote an article in Pravda on this subject and warned that, "This time there would be no Noah's Ark" if the nations of the world failed to take the threat of climate change seriously. As a matter of fact, there was substantial discussion of these problems during the Reagan-Gorbachev summit 2 weeks ago here in Washington.

Mr. STAFFORD. I think there are some very specific steps we should consider. One of these is to require cars, trucks, and other modes of transportation to reduce their CO_2 emissions by at least 50 percent. The same could be done for powerplants. Another possibility would be to identify practices which lead to climate change, such as tropical deforestation, and control those. Finally, there are some alternatives which could be encouraged as solutions. These would include nuclear fusion, solar power, and fuel cells. To steal a phrase, we should let 10,000 flowers bloom. But whatever we do, it must start as soon as possible.

Mr. CHAFEE. I agree completely. If we don't start, we will never finish. And now is as good a time as any to start, so I support what Senator STAFFORD is trying to do.

Mr. MITCHELL. I do as well, and hope that when we're not as pressed for time as we are now that all of us can work toward a bill that members of other committees can also support. We are going to need agreement across a wide spectrum to produce something that a majority of the Members can support.

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

[From the Washington Post, Dec. 19, 1987]

LATE THAW AT SOUTH POLE CALLED "OMINOUS TREND"

(By Cass Peterson)

The frigid air over Antarctica took three weeks longer than usual to warm at the onset of the Antarctic spring this year, prompting concern that the "ozone hole" discovered over the icy continent less than three years ago may be affecting global climate.

According to satellite data from the National Aeronautics and Space Administration, the polar vortex—a whirlpool-like mass of extremely cold air that forms over Antarctica in the dark winter months—broke up in late November. The vortex normally breaks up in late October or early November, when spring brings sunlight back to the South Pole and warms the atmosphere.

"This is the latest that it has failed to break up," NASA atmospheric scientist Robert Watson said. "It may be what you would expect because there is so little ozone there. What one has to consider are the ramifications."

University of California scientist F. Sherwood Rowland, a leading expert in ozone depletion, said the event "could be the first indication of major climatic change. There is no way of judging the impact, but it's an ominous trend."

Other researchers said it is not certain whether stratospheric temperatures over Antarctica could affect weather patterns. "I don't think it makes a difference in the troposphere [the atmospheric level closest to the Earth]," NASA scientist Mark Schoeberl said. "It means that temperatures in the polar region are still anomalously cold relative to previous years."

Scientists think that the delayed warming is related to a phenomenon first reported by British researchers in 1985 and now known as the ozone hole: During each Antarctic winter, ozone levels drop drastically before rising to normal again in the spring.

The discovery caused alarm, because ozone protects Earth and its inhabitants from most of the sun's most damaging ultraviolet rays, which can cause cancer, cataracts and immune-system problems.

Although the phenomenon is not understood fully, recent research tends to buttress theories that the ozone is being destroyed by chlorine molecules from a class of chemicals called chlorofluorocarbons. The process is believed to be aided by Antarctics's unusual atmospheric conditions, including the polar vortex, which traps chlorine molecules and spawns icy stratospheric clouds that enhance chemical reactions.

When the polar vortex breaks up in the spring, ozone levels over Antarctica rise and the "hole" disappears. Some ozone comes from air moving into Antarctica from other parts of the globe, and some comes from natural reformation of ozone when sunlight strikes the stratosphere.

Scientists theorize that the vortex held on longer this spring because of the magnitude of ozone loss in winter. A research expedition this year found ozone levels down more than 60 percent.

Ozone absorbs radiation and helps heat the atmosphere. Some scientists say the lack of ozone over Antarctica may have slowed the heating necessary to break up the polar vortex.

"If ozone doesn't reform, you get no heating," said Irving Mintzer of the World Resources Institute. "So you get continuing cold that contributes to the formation of stratospheric clouds and may increase ozone depletion. It's yet another of those surprises that have characterized our emerging understanding of the hole."

Schoeberl said the polar vortex also was late in breaking up in 1985, when ozone levels dropped nearly as steeply as they did this year.

The delayed breakup meant that the ozone hole lasted longer than usual, exposing an area larger than the continental United States to abnormally high levels of ultraviolet radiation for several extra weeks.

"We have to ask what the impact will be of that low ozone on the aquatic life around Antarctica," Watson said.

[From the New York Times, Dec. 19, 1987]

NEW FINDING ON OZONE "HOLE" RAISES CONCERN

(By Philip Shabecoff)

WASHINGTON, Dec. 19.—The winter mass of extremely cold air over Antarctica remained weeks longer than usual this year, along with the seasonal "hole" in the atmosphere's protective ozone layer, British and American scientists have reported.

The scientists said in interviews today and Thursday that they could give no definitive explanation for the events. It might simply be a quirk in the weather, some of them said. But several said they were worried about the possible implications for both climate change and the earth's protective ozone shield.

Scientists have previously reported that atmospheric ozone over the Antarctic fell this year to the lowest levels recorded in the several years since measurements of the seasonal thinning began. Some speculated that

the extremely low ozone level itself directly contributed to the extended cold weather because there was little ozone in the atmosphere to absorb the sun's warmth.

LATE BREAKUP OF COLD AIR

In the past the cold air mass over Antarctica in its winter has tended to break up by early to mid-November, in the Antarctic spring. At that point the ozone levels climb back toward normal too. But measurements taken by American scientists at the South Pole found that the breakup did not begin this year until Nov. 29 or 30. Scientists of the British Antarctic survey, who took measurements of Halley Bay, 1,000 miles from the pole, where ozone levels are often lowest, found the usual warming had only begun to move within the past three or four days.

Scientists from both countries said the warming of the air mass had been delayed in the past, but that this year the breakup was at least two weeks later than in any Antarctic springtime since monitoring began in 1957.

Jonathan D. Shanklin, a scientist with the British Antarctic survey who was among the first to observe the "hole" of depleted ozone in the Anatarctic atmosphere, said that on Dec. 3 the measured ozone level was about a third lower than the previous year. It was, he said, "by far the lowest" ozone readings ever made on that date.

ULTRAVIOLET RADIATION

Atmospheric ozone, a form of oxygen, protects the earth's surface from harmful ultraviolet radiation from the sun that can cause skin cancer and other health problems in humans and other life on earth. Recent evidence has indicated that the man-made chemicals have played an important role in creating the seasonal ozone hole over the South polar region.

Several of the scientists, including F. Sherwood Rowland, who first proposed in the early 1970's that atmospheric ozone could be destroyed by chlorine chemicals, suggested that the extended duration of the cold air mass was directly related to the low ozone levels. Because there was so much less ozone to absorb heat from the sun, the air over Antarctica was warming up more slowly, the scientists said.

Ralph J. Cicerone, director of the National Science Foundation's National Center for Atmospheric Research in Boulder, Colo., said the duration of the ozone-poor air mass could be dangerous for organisms in Antarctica. When the ozone first begins to disappear late in the polar winter, the sun is very low on the horizon and little ultraviolet radiation penetrates the earth. But with the ozone hole remaining until late in the Antarctic spring, the sun is higher and much more radiation can penetrate the thin atmospheric shield, Dr. Cicerone explained.

The Antarctic is rich in animal life, such as krill, a crustacean on which other marine life feeds, that plays an important part in the global food chain.

CHANGES IN CLIMATE FEARED

Mr. Shanklin of the British Antarctic Survey, interviewed by telephone in Cambridge, England, said the temperature measured at Halley Bay was still at minus 60 degrees centrigrade on Dec. 10, much colder than at that date in the past. He said the long duration of the frigid air mass in the Antarctic was likely to produce variations in "short-term weather systems and long-term climate changes" in the Southern Hemisphere.

"The problem is that we really don't know enough about the atmosphere to predict what this is going to do," Mr. Shanklin said. He added, however, that from now on those who try to predict climate patterns "are going to have to put the ozone hole into their models."

Arlen J. Krueger, an atmospheric Scientist for the National Aeronautics and Space Administration, cautioned that the extended duration of the ozone hole might simply be a variation from normal patterns and would not necessarily reoccur.

OTA ANALYSIS

[Figures 1 and 2 not reproducible for the RECORD.]

Given the uncertainties associated with the Protocol itself, today's data base, the number and behavior of signatories, and future worldwide economic activity, estimates of production and consumption of CFCs and halons in future years are necessarily uncertain. It is difficult, therefore, to forecast reductions that might result from it by the year 2009—the year by which all mandated reductions will have taken place. Scenarios can be constructed, to provide reasonable upper and lower bounds. A large consumption-cutback scenario, with a maximum reduction in use of ozone-depleting substances, is one where every nation in the world abides by the Protocol. A low consumption-cutback scenario would include only current signatories as subject to the requirements of the Protocol. While it is possible that the quantity of controlled substances could exceed these extremes, this range provides a plausible estimate of the bounds of the Protocol.

OTA analyzed the potential effects of the treaty in two ways. First, as summarized in Table 1, we examined the sensitivity of the expected changes in consumption of controlled substances to changing numbers of signatories to the treaty. These scenarios look only at changes in freons CFC-11 and CFC-12 because disaggregated data are available only for these compounds. However, CFC-11 and CFC-12 combined represent about 77 percent of world use of the substances controlled under the Protocol. Where detailed country-by-country numbers for consumption do not exist, use [4] is estimated based on GNP. EPA notes that there is a consistent relationship between billions of dollars of Gross National Product ($billions GNP) and metric tons of CFC consumed (See Figure 1). The range is between 40 and 80 metric tons per billion dollars GNP, with the average about 60 metric tons per billion dollars GNP. This relationship appears to hold for developing (Article 5) countries such as China as well as for developed countries like the United States. OTA used this relationship along with published statistics on current population, population growth rate per country, and rate of growth of per capita GNP, to project CFC use in the future.[5] The ranges displayed in each scenario of Table 1 bracket varying growth rates for the developed and developing countries.[6] The four scenarios shown here are:

TABLE 1.—CONSUMPTION SCENARIOS [1] $CFC_{11} + CFC_{12}$

	Thousand metric tons			Change from 1986 levels (percent)
	Developed	Developing	Total	
1986	550 to 660	120 to 230	700 to 890	
SCENARIO A: The Whole World Signs the Treaty				
1999	280 to 330	190 to 380	490 to 710	−15 to −35.
2009	280 to 330	90 to 190	390 to 520	−40 to −45.
SCENARIO B: The Whole World Signs the Protocol, minus some Key Countries [2]				
1999	290 to 350	190 to 380	510 to 720	−15 to −30.
2009	310 to 370	190 to 370	530 to 740	−15 to −30.
SCENARIO C: Current Protocol Signatories [3]				
1999	300 to 360	190 to 380	520 to 740	−15 to −30.
2009	330 to 400	300 to 600	670 to 1,000	−10 to +20.
SCENARIO D: The Treaty Never Goes Into Effect				
1999	770 to 920	190 to 380	1,000 to 1,300	+40 to +60.
2009	1,090 to 1,310	330 to 650	1,500 to 1,960	+110 to +140.

[4] The protocol defines "consumption" strictly as direct use of the actual controlled CFC or halon, not in terms of the consumption or use of products made with controlled substances. Under the protocol's definition, a country manufacturing a refrigerator is the consumer of the controlled substance, even though the refrigerator ultimately may be used in another country. Because data based on the protocol's definition are not available, we base estimates of consumption on actual product use; only the ultimate user of the product is considered the consumer. Therefore, because developing countries are currently not importers of products made with or containing controlled substances, they appear in this analysis to have somewhat higher consumption levels than would be the case under the protocol's definition. Likewise, developed countries—not exporters of such products, appear to consume less.

[5] World Population, rate of population increase, and GNP from 1987 World Population Data Sheet, Population Reference Bureau, Inc.; average rate of growth of GNP/capita over the period 1970–1981, World Bank Statistics.

[6] For developed countries we used 50–60 tons CFC per billion dollars GNP to project growth; for developing (Article-5) countries, this variable ranged from 40–80 tons CFC/$billion GNP.

[1] Estimates represent upper and lower bounds across a range of eight simulations per scenario; thus, numbers may not add across rows.
[2] Much of the growth in CFC consumption could occur in a fairly small set of developing counties: China and India—poor counties with enormous populations and reasonably optimistic economic prospects: Indonesia, Brazil, and Mexico—with GNP now in the middle range among nations; and Saudi Arabia, Iran, and South Korea—which have high levels of GNP per capita. (Kohler, Haaga, and Camm, "Projections of Consumption of Products Using Chlorofluorocarbons in Developing Countries," January 1987. Because Mexico has already signed the protocol, we do not include them in this category).
[3] Signatories plus U.S.S.R. and Australia.

Scenario A: Large Consumption Cutback—the entire world signs the treaty.

This results in world-wide reductions of 15–35 percent by 1999, and 40–45 percent by 2009 of CFC-11 and CFC-12 from an assumed 1986 baseline.

Scenario B: The world signs the treaty except for countries identified as pivotal to future CFC use (China, India, Indonesia, Brazil, Saudi Arabia, Iran and South Korea, none of whom have currently signed).[7]

This results in world-wide reductions of 15–30 percent by both 1999 and 2009 of CFC-11 and CFC-12 from an assumed 1986 baseline. By excluding only these 8 countries from the Protocol, much of the reduction in consumption of ozone-depleting substances possible under Scenario A is lost. This scenario demonstrates the importance of including key countries with large populations and/or favorable economic prospects in the treaty.

Scenario C: Only the countries that signed the Protocol (plus the USSR and Australia) participate.

This results in world-wide reductions of 15–30 percent by 1999, and reductions of 10 percent to an increase of 20 percent by 2009 of CFC-11 and CFC-12 from an assumed 1986 baseline. This scenario demonstrates the importance of including developing countries in the treaty; most have not signed the Protocol to date.

Scenario D: The treaty never goes into effect.

The world levels of CFC-11 and CFC-12 increase 40–60 percent over 1986 levels by 1999, and more than double by 2009. This scenario demonstrates the value of the treaty; even if only current signatories sign (Scenario C, above), consumption levels in the world will remain close to 1986 levels.

In the second type of analysis, summarized in Table 2, future consumption is calculated for all compounds covered in the treaty weighted by their ozone-depleting values.[8] Although we cannot examine the effect of adding or subtracting signatories in this situation (because detailed data are not available for compounds other than CFC-11 and CFC-12) this situation is a useful check on Scenario A. We use aggregated consumption numbers by region of the world for Group I and Group II compounds, EPA growth rates to calculate future emissions, and apply the requirements of the treaty to the whole world. Table 2 shows current and future production for developed countries, Article 5 (developing) countries, and the world. The results show that by the year 2009, if the whole world abides by the Protocol, consumption of controlled substances could decrease by about 40 percent from 1986 levels in terms of the ozone-depletion potential. The range calculated in Scenario A for the same degree of world participation is 40–45 percent; in both analyses this is somewhat less than the 50 percent cut that the United Nations anticipates by the year 1999.[9]

Group I: CFC-11 (1), CFC-12 (1), CFC-113 (0.8), CFC-114 (1), CFC-115 (0.8).

Group II: Halon-1211 (3), Halon-1301 (10), Halon-2402 (to be determined).

Either type of analysis—using detailed country-by-country consumption numbers for freons CFC-11 and CFC-12 only (Table 1), or using large world regions but including all ozone-depleting substances covered by the Protocol (Table 2)—converges on the same conclusion. Even with world cooperation through the treaty, OTA's analyses suggest that total reduction of ozone-depleting compounds would be somewhat smaller and slower than previously estimated.

TABLE 2.—PROJECTED CONSUMPTION OF CONTROLLED SUBSTANCES—LARGE CONSUMPTION-CUTBACK SCENARIO

[In thousands of metric tons] [1]

	1986 [2]		1995–97 average [3] (Article 5 parties only)	1999		2009	
	Unweighted	Weighted [4]	Weighted [3]	Weighted [4]	Percent change from 1986	Weighted [4]	Percent change from 1986
Developed parties: [5]							
Group I	935	895		475	−47	[6] 475	−47
CFC–11 and 12	740	740		370		370	
CFC–113, 114, 115	190	155		77		80	
Group II	15	94		94	0	94	0
Total group I and II	950	990		570	−43	[6] 570	−43
Article 5 parties: [7]							
Group I	180	180	265	265	+47	130	−26
CFC–11 and 12	170	170	245	245		125	
CFC–113, 114, 115	14	12	21	21		10	
Group II	3	15	23	23	+53	23	+53
Total group I and II	185	195	290	290	+49	155	−20
World:							
Group I	1,115	1,075		740	−31	[6] 605	−44
CFC–11 and 12	910	910		615		495	
CFC–113, 114, 115	205	165		101		87	
Group II	20	110		118	+8	120	+7
Total group I and II	1,130	1,185		858	−28	[6] 720	−39

[1] All 3- and 4-digit numbers are rounded to the nearest "5" (resulting in numbers which end with either "0" or "5").
Key assumptions: The protocol is not altered. All countries become parties. Article 5 countries produce and consume controlled substances for products used only domestically. Production and consumption levels do not fall below maximum levels allowed by protocol. All of the Soviet capacity allowed under article 2, paragraph 6 consists of group I compounds; and all of it is consumed domestically.
[2] The 1986 unweighted values are estimates provided in exhibit 4–6 of United States, Environmental Protection Agency, Office of Air and Radiation, Office of Program Development, Stratospheric Protection Program, "Draft Regulatory Impact Analysis: Protection of Stratospheric Ozone. Volume I: Regulatory Impact Analysis Document" (Washington, DC: U.S. EPA, October 16, 1987).
[3] Based on the growth rates provided in Exhibit 4–5 of U.S. EPA.
[4] The weighted values are computed by multiplying the unweighted values by the "ozone depleting potentials" listed in annex A of the Montreal protocol.
[5] The category of "developed" countries includes the United States, the U.S.S.R. and the Eastern block countries of Europe; and "other developed countries," as defined in U.S. EPA.
[6] This includes 50 percent of the allowance provided under article 2, paragraph 6. Because the allowance is estimated to be 50,000 tons, 50 percent or 25,000 tons will be permitted by 2009.
[7] The category of "article 5 countries" includes China and India, "group I" developing countries and "group II" developing countries as defined in U.S. EPA.

Greater reductions in consumption of ozone-depleting substances than calculated in Tables 1 and 2 could occur if:

1. The provisions in the Protocol are tightened.

2. Consumption drops more than is required by the Protocol, which may occur if countries take unilateral actions directed towards that end or if widespread changes in consumer preferences occur.

The latter would require rapid development and market infiltration of alternatives.

3. CFC and halon consumption in developing countries grows more slowly than the ranges assumed by EPA or OTA.

Smaller reductions in consumption of ozone-depleting substances than calculated in Tables 1 and 2 could occur if:

1. Fewer countries sign the Protocol than are expected under the different scenarios.

2. Developed countries who are parties to the Protocol increase their imports of products made with controlled substances from non-parties or Article-5 countries.

3. Article-5 countries increase their consumption of CFCs and halons at a faster rate than EPA or OTA estimates.

4. There is a significant increase in the use of ozone-depleting compounds (including methyl chloroform, carbon tetrachloride and CFC-22) that do not fall under the Protocol. While none of the major compounds left out of the Protocol pose threats as immediate and large as those which are covered (See Figure 2), they nevertheless do pose small but growing ozone-depletion threats.

[7] EPA Report, N-2458-EPA. Projections of Consumption of Products using Chlorofluorocarbons in developing countries, A Rand Note, by D. F. Kohler, J. Haaga, and F. Camm. This report included Mexico as an important country; since it has already signed the protocol, we did not include it as a non-signer under this scenario.

[8] The weightings are described in Annex A of the protocol.

[9] Telefax, 23 November, 1987, from I. Rummel-Bulska, United Nations Environment Program, Nairobi, Kenya, op. cit.

CFC-22, is an example of a chlorofluorocarbon that is not currently covered under the Protocol. Its ozone-depletion potential is approximately 5 percent of that associated with CFC-11; it would take 20 units of CFC-22 to have the same effect as one unit of CFC-11. While it is extremely unlikely that in the next 20 years CFC-22 will be produced in quantities large enough to match the ozone-depletion threat posed by the compounds that are regulated under the Protocol, it contributes to global warming as well (See Table 3). Note that while the ozone-depletion potential of CFC-22 is only 0.05 compared to 1.0 for CFC-11, it is relatively more significant as a greenhouse gas. The radiative forcing associated with CFC-12 is 0.08° Centigrade/part per billion (ppb) in the atmosphere; for CFC-22, the value is 0.03. Consequently, CFC-22 may ultimately pose a greater problem as a greenhouse-gas than as an ozone-depleter. Likewise, while many of the candidate compounds under investigation by the chemical industry as substitutes for the present CFC's have lower ozone-depletion potential, they may contribute to the greenhouse effect as well.[10]

The most significant impetus behind the growing use of CFC-22 will be its continued use in stationary air-conditioners, and its growing use in both mobile air-conditioners and in refrigeration as an alternative to CFC-12. This growth, however, could be significantly mitigated by the use of other alternatives, including FC-134a, a chemical substitute that contains no chlorine. It is not anticipated that alternatives for most freon uses will be widely available for at least 7-10 years.[11] Therefore, it is unlikely that substitutes will replace a large share of the controlled substance market in the near future.

TABLE 3.—OZONE DEPLETION POTENTIAL AND GREENHOUSE EFFECT FOR SELECTED COMPOUNDS

Compound	Ozone depletion-potential	Greehhouse effect: Temperature change for a uniform increase in trace gases (degrees celsius/ppb)
Group I:		
Halon 1211	3.0	(**)
Halon 1301	10.0	.10
Halon 2402	6.0	(**)
Group II:		
CFC–11	1.0	.07
CFC–12	1.0	.08
CFC–113	.8	(**)
CFC–114	1.0	(**)
CFC–115	.6	(**)
Compounds not covered by protocol:		
Carbon Tetrachloride	1.06	.05
CFC–22	.05	.03
Methyl Chloroform	.1	.01
Sulfur Dioxide	(**)	.01
CH_4	(**)	.0001
CO_2	(**)	.000004

Note.—For entries marked with **, there either is no known significant effect, or the data was not available at the time the analysis was conducted.

Sources.—(1) Ramanathan et al., 1985 as cited in United States, Environmental Protection Agency, Office of Air and Radiation, "An Assessment of the Risks of Stratospheric Modification, Volume II:" Chapter 1–6 (Washington, DC: US EPA October 1986), submission to the Science Advisory Board, U.S. EPA, p. 6–10.

(2) United States, Environmental Protection Agency, "Supplementary Information" provided with Proposed Rule on Protection of Stratospheric Ozone, December 1987.●

[10] M. Good, Testimony of March 9, 1987 as published in U.S. Congress, House of Representatives, Committee on Energy and Commerce, Subcommittee on Health and the Environment, Ozone Layer Depletion. [Washington, D.C. Government Printing Office, 1987]

[11] Ibid.

By Mr. HEINZ (for himself, Mr. SASSER, and Mr. ROTH):

S. 1992. A bill to provide intergovernmental and interagency cooperation in the development of ground water policy; to the Committee on Governmental Affairs.

COOPERATION IN THE DEVELOPMENT OF GROUND WATER POLICY

● Mr. HEINZ. Mr. President, today I am introducing legislation to promote interagency and intergovernmental cooperation in the development of ground water policy. Many agencies have responsibility for ground water policy, and often efforts to protect this invaluable resource are fragmented and uncoordinated. This lack of a coordinated, effective policy should not continue.

The myriad of agencies with responsibility for ground water protection include: Environmental Protection Agency, the U.S. Geologic Survey, the Soil Conservation Service, the Bureau of Reclamation, the Office of Surface Mine Reclamation and Enforcement, Federal Energy Regulatory Commission, and the Army Corps of Engineers, among others.

The legislation I am introducing today would establish an Interagency Committee on Groundwater Protection. The committee would include members from every Federal agency with responsibility for ground water protection. The USGS and the EPA would cochair the committee. The committee would be charged with reviewing each agency's activities to ensure coordination of ground water research efforts. It would identify duplication of effort by the agencies and any policy gaps; identify major State technical assistance, information, and research needs; develop overall priorities and a coordinated plan for addressing State technical assistance, information, and research needs; review ground water data and make recommendations to maximize its value; and facilitate interagency communication.

In addition, recognizing the critical role which State and local governments play in protecting ground water, the legislation would establish an advisory committee of State and local government representatives, in order to be certain that those governments receive the full benefit of advances in Federal research and regulatory efforts.

Mr. President, it is essential that government agencies organize themselves to cope with the serious threat that ground water poses to our Nation. While most ground water is still of good quality, there are ominous signs—Times Beach, Love Canal, Pennsylvanians forced to boil their drinking water. Leaking underground storage tanks, surface impoundments, chemical and fuel spills, midnight dumping, and more pose severe threats to public health and safety. We must see to it that coordinated, intergovernmental action to address this serious problem is taken, and taken soon.

I ask unanimous consent that the text of the bill appears at the conclusion of my remarks.

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

S. 1992

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

For the purposes of this Act—

(1) the term "Federal agency" means any department, agency, or other instrumentality of the Federal Government, including any government corporation;

(2) the term "groundwater" means water below the land surface in a zone of saturation;

(3) the term "local government" means any city, town, borough, county, parish, district, or other public body which is a political subdivision of a State and which is created pursuant to State law; and

(4) the term "State" means the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

SEC. 2. INTERAGENCY COORDINATION OF FEDERAL GROUNDWATER POLICY.

(a) IN GENERAL.—The President shall coordinate activities conducted by the agencies of the United States Government to assist efforts to characterize, classify, manage, protect, and remediate groundwater resources and to design groundwater monitoring programs. The President shall also disseminate information concerning those activities to the appropriate Federal agencies, and State and local governments.

(b) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT OF INTERAGENCY COMMITTEE.—In carrying out his responsibilities to coordinate Federal actitivies under this Act, the President shall establish an Interagency Committee on Groundwater Protection. The Committee shall be established within 90 days from the enactment of this Act. The membership of the Committee shall include each Federal agency involved in groundwater related activities. The Committee shall be co-chaired by the Director of the United States Geological Survey and the Administrator of the Environmental Protection Agency and shall hold at least two public meetings per year.

(2) DUTIES.—The Interagency Committee on Groundwater Protection shall—

(A) review the activities of each member agency to ensure coordination among such agencies;

(B) identify and eliminate duplications and overlap between or among programs of member agencies;

(C) identify major State technical assistance, information, and research needs;

(D) develop overall priorities and a coordinated plan for addressing State technical assistance, information, and research needs identified in subparagraph (C);

(E) review groundwater information and data collected by member agencies and make recommendations to maximize the value of information collected for programs

conducted by the Federal agencies and by State and local governments; and

(F) otherwise facilitate interagency communication on technical assistance, information, and research and development programs which support State groundwater protection and management programs.

(3) ANNUAL REPORT.—The Interagency Committee on Groundwater Protection shall prepare an annual report that summarizes the groundwater technical assistance, information, and research needs of State and local governments, takes into account reports of the Advisory Committee established under subsection (c) and evaluates the extent to which member agencies are addressing those needs. The annual report shall be submitted to Congress not later than January 15 of each year beginning in 1989.

(c) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT OF COMMITTEE.—The President shall establish within 90 days after the date of enactment of this Act, the Advisory Committee on Groundwater Protection (hereinafter referred to as the "Advisory Committee"). The Advisory Committee shall be composed of not more than 11 individuals representing State and local governments. Each member shall be selected from among State and local government officials with knowledge of groundwater issues.

(2) PURPOSE OF COMMITTEE.—The purpose of the Committee is to ensure that the programs and policies carried out by the member agencies of the Interagency Committee on Groundwater Protection are familiar to and meet the needs of State and local government agencies with responsibility for protecting groundwater resources.

(3) CONSULTATIONS.—The Interagency Committee on Groundwater Protection shall meet on a regular basis with the Advisory Committee but no less often than every 6 months to discuss the progress in developing the policies and programs required by this Act. The Advisory Committee shall submit reports, at least one per year, to the Interagency Committee on Groundwater Protection.

(4) ACCESS TO INFORMATION.—The Advisory Committee may request, in writing, access to information from the Interagency Committee on Groundwater Protection. The Interagency Committee on Groundwater Protection is authorized and directed to provide the Advisory Committee with such information as it deems appropriate.

(5) AGREEMENTS.—Each member agency of the Interagency Committee on Groundwater Protection shall enter into agreements and/or memoranda of understanding with the other members of the Committee detailing the responsibilities of each entity in order to avoid duplication of efforts.

SEC. 3. AUTHORIZATION.

There are authorized to be appropriate $2,000,000 in each of fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out this Act.●

By Mr. BUMPERS (for himself, Mr. WEICKER, and Mr. KERRY):

S. 1993. A bill to amend the Small Business Act to improve the growth and development of small business concerns owned and controlled by socially and economically disadvantaged individuals, especially through participation in the Federal procurement process, and for other purposes; to the Committee on Small Business.

MINORITY BUSINESS DEVELOPMENT PROGRAM REFORM ACT

Mr. BUMPERS. Mr. President, I am pleased to introduce today, with the cosponsorship of Senator LOWELL WEICKER and Senator JOHN KERRY, legislation that proposes reforms in the Small Business Administration's 8(A) Program. The 8(A) Program, established to assist the development of minority and disadvantaged businesses by providing Federal contracts and business development resources to these firms, has been crippled by fraud and mismanagement. Sadly, today a former SBA Regional Administrator is under indictment, and the Attorney General himself is under investigation, both in connection with the most notorious 8(A) scandal ever, Wedtech. The program has become unresponsive to the true needs of the minority small business community, and it is essential that Congress consider improvements that will prevent future program abuse and assist small businesses in becoming self-sufficient and competitive.

This legislation is not solely a response to Wedtech and other scandals that have recently surfaced. Although these events have added a degree of timeliness to our efforts, the Senate Small Business Committee began to scrutinize the 8(A) Program almost 2 years ago in preparation for this reform measure. During that period, we implemented a survey of businesses that had graduated from the 8(A) Program, and were able from that survey to define many of the program's weaknesses. Our hearings, in Washington and Boston, have examined the problems that the minority small business community finds in the program. We have studied the problems, weighed the solutions, and today we present our proposal.

Approximately 850,000 minority-owned small businesses constitute an important part of our Nation's economic framework. All across this country, these firms have played a pivotal role in making the American dream a reality for minority entrepreneurs, and in revitalizing depressed areas that would otherwise be dependent upon millions of Federal dollars for economic recovery. Yet, the resources available to minority-owned businesses are limited. Only 1.8 percent of all minorities have been financially able to start firms, and well over 94 percent of such businesses are sole proprietorships. They continue to face discrimination in access to credit and markets. Therefore, the restricted resources with which these firms must deal have stagnated economic expansion in many areas.

The Small Business Administration's 8(A) Program is a mechanism by which minority-owned firms can pull themselves up by their bootstraps. The program has the potential of offering economic promise for many disadvantaged Americans who otherwise would be unable to do business with the Federal Government. The 8(A) Program allows qualified firms to provide necessary services for the Federal Government through contracts that are set aside for minority business concerns. Technically, section 8(A) allows SBA to act as the provider of goods and services to the Government, and the agency then subcontracts performance of the work to one of its portfolio of 8(A) certified firms. Firms may remain eligible for these no-bid contracts for a fixed period of time, although under current law they may receive an extension of their participation period and then must graduate to full private sector status. Upon graduation, the firms are expected to have garnered the necessary experience and financial security to compete in the economic mainstream.

The program's promise, however, has often been an empty one. Poor program management has all too often led to program inadequacies and abuse. High-ranking Government officials have been indicted for directing contract awards to benefit firms in which they have an interest, as exemplified by the Wedtech scandal. This politicalization has threatened the very existence of the 8(A) effort, and is intolerable. Furthermore, inequitable contract distribution has enabled 10 percent of participating firms to receive 80 percent of all contracts. A sluggish application process has stagnated the development of firms that must base their business plans on program acceptance, and the arbitrary manner in which program extensions are granted helps lend further credence to the popular belief that 8(A) is a highly political and inefficient program.

Moreover, a survey of 8(A) graduates performed by the Senate Small Business Committee during Senator WEICKER's chairmanship found that as many as 30 percent of firms probably go out of business after graduation. The program has failed to offer adequate business development resources and the program has not encouraged firms to stand on their own. This has created a deadly dependency for firms upon 8(A) contracts, as many have closed their doors or have barely survived due to their inability to compete in the open market.

This legislation provides a vital step forward in tightening up the 8(A) Program. Its reforms are intended to curb future program abuse. It also stresses the importance of adhering to business development plans, strengthens the resources available to firms from the SBA, and encourages firms to sharpen their abilities through honest competition inside and outside the program. It is high time that those

who administer 8(A), along with the program's participants, roll up their sleeves and put some determination behind making this program work effectively and equitably. Otherwise, it could be lost.

This bill proposes many major program improvements. It institutes an 8-year fixed participation period with no extension considerations. Not only does this remove the arbitrary nature by which such extensions were granted in the past, it also sets a more definite planning period for firms and affords program administrators the time to direct their energies toward application and development responsibilities rather than toward extension requests. The SBA will also be required to make decisions on applications within 90 days and ensure that contract distribution is fair among firms and around the Nation.

To foster the growth of 8(A) businesses and to reduce the incentives for political influence peddling, this initiative proposes competition within and outside the program. Competition within the program will be required among firms for manufacturing, construction, and service contracts worth more than $2 million and all other contracts worth more than $1 million. This requirement will deter the domination of a few firms over large awards and guard against corruption that large 8(A) awards have drawn in the past.

After participating in the program for 3 years, firms must also develop specified percentages of non-8(A) business in order to maintain their eligibility for contracts awarded within the program. I believe this provision will be the catalyst in preventing firms from becoming addicted to the program and disabling their ability after graduation. Requiring the procurement of outside contracts will increase the inventory of 8(A) awards, alleviating the stagnation that firms often face due to the lack of contract activity presently in the program and, most importantly, enabling more businesses to successfully participate in 8(A).

In order to facilitate 8(A) firms' efforts to develop competitive business, this bill establishes a revolving fund from which bid preparation costs can be subsidized. Firms may receive not more than $100,000 annually in bid preparation costs from the fund, and those that are successful in obtaining contracts will repay 50 percent of the grant to the fund.

I am optimistic that this measure will gain the support of my fellow colleagues, as it will streamline and rejuvenate a program that is important to strengthening our Nation's disadvantaged small business community. Although the House and Senate bills have many differences, both bills commit us to providing opportunities and growth for small firms. The hope and confidence of enterpreneurs, founded on the belief that ambition and hard work will provide opportunities that can only be earned in America, must be supported if we are to maintain a healthy economy. This legislation provides corrections to a worthy program and presents new possibilities for those who will work to make their dreams come true. I am proud to introduce it today, and I ask my colleagues for their support.

I ask unanimous consent that the Minority Business Development Reform Act of 1987 be printed in the RECORD at this time.

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

S. 1993

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minority Business Development Program Reform Act of 1987".

TITLE I.—CONGRESSIONAL FINDINGS AND PROGRAM PURPOSES

SEC. 101. FINDINGS.

The Congress finds that—

(1) the Small Business Administration Section 8(a) Minority Small Business program remains a primary tool for improving opportunities for minority-owned businesses in the Federal procurement process and bringing these businesses into the nation's economic mainstream;

(2) in spite of all efforts, too few 8(a) graduates have been prepared by the program to compete successfully in the open marketplace on competitive procurements and many firms have developed an unhealthy dependency on sole-source contracts by the time of graduation from the program;

(3) the application and certification process for bringing new participants in the program is unordinately lengthy and burdensome;

(4) the Small Business Administration has often failed to efficiently and equitably administer and manage the program, and there have not been clear lines of responsibility for implementing and monitoring many of the administrative duties under the program;

(5) many Federal procuring agencies have failed to identify and offer the necessary amount of contract support in order to allow for diversification and growth of minority-owned businesses participating in the program;

(6) both contract support as well as business development expense have been provided by SBA to only a few firms, while many other firms have received little or no direct assistance under the program;

(7) the wide-spread perception of undue political influence in the operation and administration of the 8(a) program has significantly contributed to the program's poor public image and has deterred utilization of the program both by socially and economically disadvantaged concerns and by Federal procuring agency managers; and

(8) it is imperative that substantial reforms be accomplished in the 8(a) program in order to promote the Congressionally mandated business development objectives and purposes of the program.

SEC. 102. PURPOSES.

The purposes of this Act are to—

(1) ensure that the benefits of the section 8(a) program accrue to individuals who are both socially and economically disadvantaged;

(2) reaffirm the business development objectives and purposes of the program to ensure that concerns graduating from the program will be better prepared to compete in this nation's economic mainstream;

(3) increase the number of minority-owned businesses from which the United States may purchase articles, equipment, supplies, services, materials, and construction work; and

(4) ensure integrity, competence and efficiency in the administration of both business development services and management and distribution of Federal contracting opportunities to disadvantaged small businesses.

TITLE II.—PROGRAM ORGANIZATION, ELIGIBILITY, AND PARTICIPATION

SEC. 201. OFFICE OF MINORITY SMALL BUSINESS CERTIFICATION.

Section 7(j)(11) of the Small Business Act (15 U.S.C. 636(j)(11)) is amended to read as follows:

"(11)(A) There is established within the Office of Minority Small Business and Capital Ownership Development a Division of Minority Small Business Certification which shall exercise the responsibilities and functions specified in subparagraph (B). The Division shall be administered by a Director appointed by the Administrator and shall be responsible to the Associate Administrator for Minority Small Business and Capital Ownership Development. To facilitate the timely exercise of the Division's responsibilities and functions, an office of the Division shall be established in each regional office of the Administration.

"(B) The responsibilities and functions of the Division of Minority Small Business Certification, to be exercised through its regional offices, shall be to—

"(i) receive applications for certification as Program Participants from small businesses owned and controlled by socially and economically disadvantaged individuals;

"(ii) review and evaluate applications required of prospective Program Participants, visiting the offices and facilities of such applicants when appropriate to thoroughly evaluate applications;

"(iii) make recommendations regarding certification of a prospective Program Participant to the Director [for his consideration];

"(iv) review periodically the financial and other reports of each Program Participant to confirm its continued Program eligibility, or whenever a Program Participant initiates any change in ownership interest or other change which could impair continued Program eligibility;

"(v) initiate termination proceedings with respect to a Program Participant deemed to have met one or more of the grounds for termination set forth in paragraph 10(H) of this section; and

"(vi) consider all protests regarding a small business concerns status as a small business concern owned and controlled by socially and economically disadvantaged individuals for the purpose of eligibility to participate in the various programs authorized by this Act or section 1207 of Public Law 99-661.".

SEC. 202. ELIGIBILITY AND CERTIFICATION.

(a) Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is amended by adding at the end thereof the following new subparagraphs:

"(D)(i) The Associate Administrator for Minority Small Business and Capital Ownership Development shall consider applications received from the Director of the Division of Minority Small Business Certification and issue a certificate as a Program Participant to a small business concern owned and controlled by socially and economically disadvantaged individuals as determined in accordance with paragraphs (4), (5), (6) and (7) of section 8(a) of this Act or deny such application, in accordance with subparagraph (E) of this section.

"(ii) Notwithstanding any other provision of law, a small business concern certified as a Program Participant shall not be eligible to participate in the Program for a period in excess of 8 years, commencing on the date of the award of its first contract under the authority of section 8(a).

"(E)(i) Within 15 days of the receipt of an application for admission into the Program, an applicant shall be furnished written notification that such application is complete and suitable for consideration, or specify the deficiencies which make such application unsuitable for consideration.

"(ii) Not later than 90 days after receipt of a completed application for Program certification, the Associate Administrator for Minority Small Business and Capital Ownership Development shall render a decision regarding such application in accordance with subparagraph (D)(i).

"(iii) If an applicant is denied certification, the Associate Administrator for Minority Small Business and Capital Ownership Development shall notify the applicant in writing, specifying the reasons for such denial and advising the applicant of the right to request a reconsideration within 30 days of receipt of such notice of denial. The applicant may make a written request for reconsideration, including therein information and documentation not previously provided, specifically rebutting the basis on which denial was made. If upon reconsideration, the application is again denied, no new application may be accepted for a period of one year from the date of Associate Administrator's action on such request for reconsideration.

"(iv) The Associate Administrator in conjunction with the Director shall develop procedures and guidelines to minimize the paperwork and reduce the time associated with the certification process, in accordance with clause (ii).

"(F)(i) Any small business concern participating in the Program authorized under this section and eligible for award of contracts under the authority of section 8(a) on the effective date of this section shall be deemed to be a Program Participant.

"(ii) Such Program Participant may continue in the Program for a period of time which is the greater of—

"(I) 8 years less the number of years since the award of such Program Participant's first contract under section 8(a), or

"(II) the unexpired portion of its Program Participation Term established in accordance with section 7(j)(10) of the Act.

"(iii) This section shall not be deemed to create any Program eligibility for a small business concern owned and controlled by socially and economically disadvantaged individuals, if prior to the effective date of this section such firm was—

"(I) graduated from the Minority Small Business and Capital Ownership Development Program by the expiration of its Program Participation Term,

"(II) terminated for cause from participation in the Program authorized by this section or for award of a contract under the authority of section 8(a), or

"(III) deemed otherwise ineligible to receive assistance authorized under this section or for the award of a contract under the authority of section 8(a).".

SEC. 203. GRADUATION STANDARDS.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is further amended by adding at the end thereof the following new subparagraph:

"(G) A Program Participant certified as eligible to receive assistance under the authority of this section and eligible to receive contracts under section 8(a) of this Act shall be graduated if such Program Participant—

"(i) has been a participant in the Program for the 8-year period prescribed by subparagraph (D)(ii) or (F) of this section,

"(ii) has exceeded the applicable size standard established by the Administration pursuant to section 3 of this Act,

"(iii) is no longer owned and controlled by socially and economically disadvantaged individuals, as the result of a sale of securities to the public, or

"(iv) determines that it has achieved its business goals and objectives as specified in its most recent business plan established pursuant to section 7(j)(10)(A) and (C) and elects to graduate prior to the expiration of its Program Participation Term.

For the purposes of this Act the term "graduated" or "graduation" shall mean the cessation of a Program Participant's eligibility to receive assistance pursuant to this section or for award of a contract under section 8(a) in recognition of the firm's successful completion of its Program Participation Term.".

SEC. 204. TERMINATION.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is further amended by adding at the end thereof the following subparagraphs:

"(H) The Administration, in accordance with clause (iii), may terminate a Program Participant from eligibility for this Program and the program under section 8(a) of this Act based upon good cause if—

"(i) such Program Participant—

"(I) fails to conform to the criteria of eligibility as a small business concern owned and controlled as socially and economically disadvantaged,

"(II) has a consistent pattern of delinquent performance or termination for default with respect to contracts awarded under the authority of section 8(a) of this Act,

"(III) has a consistent pattern of failing to make required submissions or responses to the Administration in a timely manner,

"(IV) is debarred by any contracting agency pursuant to the Federal Acquisition Regulation (48 CFR 9.4), or

"(V) violates rules and regulations promulgated by the Administration; or

"(ii) any of the owners of such Program Participant are convicted of embezzlement, theft, forgery, bribery, falsification or any other offense indicating a lack of business integrity.

For the purpose of this Act 'terminated' or 'termination' shall mean the total denial of assistance pursuant to this paragraph or section 8(a) prior to graduation (as described in subparagraph (G)) or prior to the time prescribed by subparagraph (D)(ii).

"(iii) The Director of the Division of Minority Small Business Certification may initiate a termination action by recommending such action to the Associate Administrator for Minority Small Business Capital Ownership Development. Whenever the Associate Administrator deems such termination is appropriate, the Program Participant shall be provided a written notice of intent to terminate, specifying the reasons for such action. No Program Participant shall be terminated from the Program without first being afforded a hearing on the record in accordance with section 8(a)(9) of this Act. The Administration shall conduct such hearing within 120 days of the Program Participant's receipt of the notice of intent to terminate.".

SEC. 205. CHALLENGING ELIGIBILITY.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is further amended by adding at the end thereof the following new subparagraphs:

"(I)(i) The Administration may conduct an evaluation of a Program Participant's eligibility for continued participation in the Program whenever it receives specific and credible information alleging that such Program Participant no longer meets the requirements for Program eligibility.

"(ii) Upon making a finding that a Program Participant is no longer eligible, the Administration shall provide a written notice to such Program Participant, specifying the grounds for such finding and affording the challenged Program Participant the opportunity to offer a response within 45 days of receipt of the notice of ineligibility.

"(J)(i) Any protest challenging the status of a small business concern as a small business concern owned and controlled by socially and economically disadvantaged individuals shall be considered and decided by the Director of the regional office of the Division of Minority Small Business Certification for the region in which such challenged small business concern has its principal place of business.

"(ii) A protest regarding the eligibility of a small business concern as a small business owned and controlled by socially and economically disadvantaged individuals may be filed by an offeror, the contracting officer, or other interested party relating to a contract action under the authority of section 8(a) of this act or section 1207 of Public Law 99-661, or a subcontract action pursuant to section 8(d) of this Act. Such protest shall be in writing and shall specifically allege the grounds upon which the protest is based. In order to be considered, a protest must be filed with the Assistant Regional Administrator for Minority Small Business and Capital Development Ownership within 5 days of—

"(I) bid opening in the case of a contract or subcontract being awarded by competitive sealed bidding or its equivalent; or

"(II) receipt of notice of the apparent successful offeror in the case of a contract or subcontract being awarded by negotiation, either competitively or noncompetitively.

"(iii) The Director of the regional office of the Division of Minority Small Business Certification shall promptly review the eligibility of the party whose status is being challenged, after giving notice to such party, the party filing the protest, the contracting officer (if other than the party filing the protest) and any other interested parties he deems appropriate. The Director's review shall include consideration of information submitted by the party whose

status is being challenged, the party filing the protest, and other interested parties, if such information is received by the Administration not later than 5 days after the date such party receives the notice of protest. A decision regarding the status of the concern shall be issued not later than 15 days after receipt of the protest.

"(iv) Not later than 5 days after receipt of the Director's decision, the firm whose status is being challenged may file a written appeal to the Associate Administrator for Minority Small Business and Capital Ownership Development, who shall render a decision not later than 5 days after such appeal is filed.

"(v) Within 5 days of receipt of the decision of the Associate Administrator, the firm whose status is being challenged may file a written appeal to the Administration's Office of Hearings and Appeals.

"(vi) Unless otherwise provided by law or regulation, a procurement action need not be suspended pending decision on appeal to the Associate Administrator or the Office of Hearings and Appeals.

"(vii) The Administration may dismiss a protest without further consideration if it determines such protest is without merit or frivolous.

"(viii) Whenever the Administration has reason to believe from its consideration of a protest that a false statement has been made, the matter shall be referred to the agency investigating official designated pursuant to the Program Fraud and Civil Remedies Act of 1986 (sections 3801-3812, title 31, United States Code).".

TITLE III—ENHANCING THE PROGRAM'S BUSINESS DEVELOPMENT ASPECTS

SEC. 301. BUSINESS PLANS.

(a) Section 7(j)(10)(A)(i) of the Small Business Act (15 U.S.C. 636(j)(10)(A)(i)) is to read as follows:

"(i) assist small business concerns participating in the Program either through public or private organizations to develop and maintain a comprehensive business plan which sets forth the Program Participant's specific business objectives and goals. Such business plan, developed and maintained in conformity with subparagraph (B) shall be designed to result in such Program Participant becoming a business concern capable of effectively competing in the marketplace upon graduation from the Program."

(b) Section 7(j)(10) of such Act is further amended—

(1) by striking subparagraph (C),

(2) by redesignating subparagraph (D) (as added by Section 202 of this Act) as subparagraph (C), and

(3) by adding after subparagraph (C), the following new subparagraph:

"(D)(i) Promptly after certification under subparagraph (E), a Program Participant shall submit a business plan as described in clause (ii) of this subparagraph for review by the Business Opportunity Specialist assigned to assist such Program Participant. Such plan, and subsequent revisions submitted under clause (iii) of this subparagraph, shall be approved by the Administration prior to the Program Participant being eligible for award of a contract pursuant to section 8(a).

"(ii) The business plans submitted under this paragraph shall include the following:

"(I) An analysis of market potential, competitive environment, and other business analyses estimating the Program Participant's prospects for profitable operations during the term of Program participation and after graduation.

"(II) An analysis of the Program Participant's strengths and weaknesses with particular attention to correcting any financial, managerial, technical, or personnel conditions which impede such small business concern from winning contracts other than those obtained under section 8(a) of this Act.

"(III) Specific objectives and goals for development of the Program Participant during the next and succeeding years utilizing the results of the analyses conducted pursuant to subclauses (I) and (II).

"(IV) A transition management plan outlining specific steps to assure profitable business operations after graduation (to be incorporated into the Program Participant's overall business plan during the revision relating to the fifth Program year of the firm's Program Participant Term).

"(V) Estimates of contract awards pursuant to section 8(a) and from other sources, which the Program Participant will require to meet the specific objectives and goals for the years covered by its approved plan. The estimates established shall be consistent with the provisions of subparagraph (K) and section 8(a)(18)(D).

"(VI) The dollar value of the aggregate awards from the Bid and Proposal Cost Fund to which the Program Participant may be eligible pursuant to section 7(m)."

"(iii) Each Program Participant shall annually review its currently approved business plan with its Business Opportunity Specialist and modify such plan as may be appropriate. Any modified plan shall be submitted to the Administration for approval. The currently approved plan shall be considered valid until such time as a modified plan is approved by the Administration. The annual review pertaining to the fifth and subsequent years of Program participation shall include a verification of such Program Participant's compliance with the requirement of subparagraph (K).".

SEC. 302. COMPETITIVE BID AND PROPOSAL COST FUND.

(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end thereof the following new subsection:

"(m)(1) There is hereby established in the Treasury of the United States a separate fund consisting of such amounts as may be appropriated to carry out the purposes of this subsection. Such fund shall be available as a revolving fund to the Administrator for bid and proposal costs without fiscal year limitation.

"(2) The purpose of the Bid and Proposal Cost Fund is to foster the competitiveness of Program Participants through the award of financial assistance to help defray the substantial costs to be incurred in the preparation of offers necessary to effectively compete for the award of government and commercial contracts.

"(3) Program Participants shall be eligible for funding from the Bid and Proposal Cost Fund during—

"(A) The first through the fourth year of the Program Participant's Program Participation Term; and

"(B) The fifth and succeeding years of the Program Participant's Program Participation Term, if the Program Participant has failed to meet the requirements of subsection (j)(10)(K).

"(4) The amount of assistance from such Fund which may be awarded to an eligible Program Participant during the succeeding fiscal year shall be annually determined by the Administration on the basis of an analysis conducted in conjunction with the Program Participant during the review of such Program Participant's business plan, but shall not exceed an aggregate of $100,000 in any fiscal year.

"(5) Subject to regulations promulgated by the Administration, an award of financial assistance in the form of a grant may be made in response to an application from a Program Participant, for—

"(A) such direct and indirect costs which may be incurred by the Program Participant for the preparation of an offer in response to a competitive contract solicitation;

"(B) in an amount not to exceed the level of bid and proposal cost effective authorized in the Program Participant's business plan for that fiscal year.

"(6) Any recipient which is awarded a contract for which it has received bid and proposal cost assistance under this subsection shall be required to repay the Fund an amount equal to 50 percent of the amount received from the Fund to assist in the preparation of the offer that led to such contract award.".

(b) AUTHORIZATION FOR APPROPRIATIONS.—There is hereby authorized to be appropriated for the fund established pursuant to subsection (a) the sum of $5,000,000 for fiscal years 1989, 1990, and 1991.

SEC. 303. MANAGEMENT ASSISTANCE.

Section 7(j)(10)(A) is further amended—

(1) by striking out "and" at the end of clause (v),

(2) by striking out the period at the end of clause (vi) and inserting in lieu thereof a semicolon, and "and", and

(3) by adding at the end thereof the following new clauses:

"(vii) provide assistance necessary to help small business concerns participating in the Program by establishing a training program to be delivered at the regional level to instruct Program Participants in preparing effective proposals to competitive solicitations issued by the various Federal agencies; and

"(viii) provide assistance to public or private organizations or individuals to conduct seminars to assist Program Participants to develop business plans which will enhance the concern's potential for operating profitably upon graduating from the Program.".

SEC. 304. AUTHORITY FOR JOINT VENTURES.

Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended by adding at the end thereof the following new paragraph:

"(15)(A) The Administrator, on a nondelegable basis, may approve any agreement for a joint venture between a small business concern eligible for assistance under section 7(j)(10) of this section and any other business concern, if the Administrator—

"(i) determines that such joint venture will develop the marketing, business management, or technical performance capabilities of the eligible small business concern, enhancing its ability to successfully win and perform contract opportunities other than those obtained under the authority of this section; and

"(ii) obtains the prior written approval of the Attorney General, after consultation with the Chairman of the Federal Trade Commission.

"(B) No act or omission occurring during the term of any such approved joint venture agreement shall be construed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act, if undertak-

en pursuant to and within the scope of any such agreement.

"(C) No small business concern that enters into such joint venture agreement shall be deemed to be other than a small business concern solely because it is a party to such agreement.

"(D) No joint venture established under the authority of this paragraph shall be eligible for an award of any contract or subcontract pursuant to sections 8(a), 8(d), 9, or 15 unless such joint venture would have been eligible in the absence of the provisions of this paragraph.

"(E) The Administrator shall withdraw approval for such joint venture agreement if—

"(i) he determines that the activities of the joint venture are failing to attain the purposes and objectives for which such joint venture was approved; or

"(ii) the Attorney General requests its termination, after making a determination that the activities of the joint venture, which would otherwise be deemed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act, are inimical to the public interest.

"(F) Each approval of a joint venture agreement and any withdrawal of such an approval shall be published in the Federal Register.".

SEC. 305. MINORITY BUSINESS DIRECT LOAN PROGRAM.

Section 7(a) of the Small Business Act (15 U.S.C. 626(a)) is amended by adding at the end thereof the following new paragraph:

"(17)(A) The Administration is authorized to make loans for the purchase of equipment, facilities, materials, supplies or other necessary production or technical assets and for working capital directly to small business concerns which are eligible to receive assistance under sections 7(j)(10) and 8(a) of this Act. Such assistance may be provided subject to the following limitations and restrictions:

"(i) all loans made under this section shall be of such sound value as to reasonably assure repayment.

"(ii) no financial assistance shall be extended under this subsection if the applicant can obtain credit elsewhere, and

"(iii) the rate of interest on financings made under this subsection shall be 2 percent less than the rate established on direct loans made under paragraph (11).

"(B) There is hereby established within the Treasury a revolving fund that shall be available to the Administration, without fiscal year limitation, for financing functions performed pursuant to this paragraph. Any repayment received by the Administration with respect to loans made under this paragraph shall be deposited in the fund. All expenses, including administrative expenses, resulting from making or disposing of such loans by the Administration shall be paid from the fund.

"(C) There are hereby authorized to be appropriated to the fund established by subparagraph (B) $10,000,000 to carry out the provisions of this paragraph relating to the making and servicing of loans. Unobligated funds previously appropriated for business development expense from the salaries and expense account shall be transferred into the fund established by subparagraph (B).".

TITLE IV.—BUSINESS DEVELOPMENT THROUGH FEDERAL CONTRACTING OPPORTUNITIES

SEC. 401. DEVELOPMENT OF BUSINESS MIX EMPHASIZING COMPETITIVE CONTRACT AWARDS.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is further amended by adding at the end thereof the following:

SEC. 402. PLANNING 8(A) CONTRACT ACTIVITY.

(a) Forecasting Contracting Opportunities. Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended by adding at the end thereof the following new paragraph:

"(16)(A) Each executive agency reporting to the Federal Procurement Data System contract actions with an aggregate value in excess of $50,000,000 in fiscal year 1986 and any succeeding fiscal year shall prepare a forecast of expected contracting opportunites or classes of contracting opportunities for the next and succeeding fiscal years that it considers to be suitable for award under section 8(a), which shall be periodically revised during such year. To the extent such information is available, the agency forecasts shall specify:

"(i) The approximate number of individual contract opportunities (and the number of opportunities within a class).

"(ii) The approximate dollar value, or range of dollar values, for each contract opportunity or class of contract opportunities.

"(iii) The anticipated time (by fiscal year quarter) for the issuance of a procurement request to the responsible agency contracting activity.

"(iv) The activity within the department or agency responsible for the program requirement creating the contracting opportunity.

"(v) The contracting activity responsible for the award and administration of the contract.

"(B) The head of each executive agency subject to the provisions of subparagraph (A) shall furnish such forecasts of expected contracting opportunities suitable for award under section 8(a) to the Administration within 10 days of its availability to such agency head.".

(b) RATE OF CONTRACT SUPPORT AS ELEMENT OF ANNUAL REVIEW OF BUSINESS PLAN.—Section 8(a) of the Small Business Act is further amended by adding at the end thereof the following new paragraph:

"(17)(A) Each Program Participant shall annually forecast its needs for contract awards under this section for the next Program year and the succeeding Program year during the review of its business plan, conducted pursuant to section 7(j)(10)(K)) of this Act.

"(B) Such forecast shall include—

"(i) the aggregate level of contract support (number and dollar value) to be sought under section 8(a), reflecting compliance with the requirements of section 7(j)(10)(K),

"(ii) the types of contract opportunities being sought, identified by Standard Industrial Classification (SIC) Code or otherwise,

"(iii) an estimate of the level of contract support (number and dollar value) to be sought on a noncompetitive basis,

"(iv) an estimate of the level of support (number of applications and estimated dollar value of each) to be sought from the Bid and Proposal Cost Fund under section 7(m), and

"(v) such other information as may be useful to the Business Opportunity Specialist in providing effective business development assistance to the Program Participant.".

SEC. 403. CONTRACT AWARDS.

Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended by adding at the end thereof the following new paragraph:

"(18)(A) Except as provided in subparagraphs (B) and (C), the Administration shall award non-competitive contracts under this section to the concern that identifies the contract opportunity if—

"(i) the Program Participant is determined to be a responsible contractor with respect to performance of such contract opportunity;

"(ii) the award of such contract would be consistent with the Program Participant's business plan; and

"(iii) the award of the contract would not result in the Program Participant exceeding the requirements established by section 7(j)(10)(K) of this Act.

"(B) Notwithstanding the preceding paragraph, the Administration may consider the geographical distribution of contracts and may direct the award of any contract under this section to achieve an equitable distribution of contracts among the Administration's various regions and among Program Participants.

"(C)(i) except as provided in clause (ii), the Assistant Regional Administrator for Minority Small Business and Capital Ownership Development in each of the regional offices shall be the contract award official with respect to each contract awarded to a Program Participant under this section.

"(ii) Awards shall be made by the Assistant Regional Administrator to the Program Participant selected by—

"(I) The contracting officer of the agency offering the contracting opportunity to the Administration, after a restricted competition conducted under the authority of subparagraph (E) of this section; or

"(II) the Assistant Regional Administrator for Minority Small Business and Capital Ownership Development, if the contracting opportunity is being awarded noncompetitively and designation of the Program Participant to receive the contract has been made at the Administration's headquarters.

"(D)(i) Except as provided in clause (ii), a Program Participant shall be ineligible for the award of a contract on a noncompetitive basis under this section, if the expected award price of such contract exceeds by more than 150 percent the total contract price paid to the Program Participant for performance of its largest prior contract.

"(ii) The Assistant Regional Administrator for Minority Small Business and Capital Ownership Development may waive the requirements of subclause (i) upon making a written determination that the Program Participant otherwise eligible to receive the contract award has the managerial, financial, and technical capabilities to perform the contract in accordance with its terms and conditions, specifically taking into consideration all concurrent contractual obligations from Governmental and non-governmental sources. Such determination shall be based on a thorough evaluation of the Program Participant's business operations, including a physical survey of its offices and facilities, as appropriate.

"(E)(i) Except as provided in clause (ii), an agency offering a contracting opportunity for award under this section shall determine the Program Participant eligible for award of the contract on the basis of a competition

and submission of the amendment. A public housing agency shall have a right to amend its comprehensive plan and related statements to extend the time for performance whenever the Secretary has not provided the amount of assistance set forth in the plan or has not provided the assistance in a timely manner.

"(C) The Secretary shall approve the annual statement and any amendment to it or the comprehensive plan unless the Secretary determines that the statement or amendment is plainly inconsistent with the activities specified in the comprehensive plan. The statement or amendment shall be considered to be approved, unless the Secretary notifies the public housing agency in writing before the expiration of the 75-day period following its submission that the Secretary has disapproved it as submitted, indicating the reasons for disapproval and the modifications required to make it approvable.

"(4)(A) Each public housing agency that owns or operates 500 or more public housing dwelling units shall submit to the Secretary, on a date determined by the Secretary, a performance and evaluation report concerning the use of funds made available under this section. The report of the public housing agency shall include an assessment by the public housing agency of the relationship of such use of funds made available under this section, as well as the use of other funds, to the needs identified in the comprehensive plan of the public housing agency and to the purposes of this section. The public housing agency shall certify that the report has been made available for review and comment by affected tenants prior to its submission to the Secretary.

"(B) The Secretary shall, at least on an annual basis, make such reviews as may be necessary or appropriate to determine whether each public housing agency receiving assistance under this section—

"(i) has carried out its activities under this section in a timely manner and in accordance with its comprehensive plan;

"(ii) has a continuing capacity to carry out its comprehensive plan in a timely manner;

"(iii) has satisfied, or has made reasonable progress towards satisfying, such performance standards as shall be prescribed by the Secretary, and has made reasonable progress in carrying out modernization projects approved under this section.

"(C) Each public housing agency that owns or operates 500 or more public housing dwelling units and receives assistance under this section shall have an audit made in accordance with chapter 75 of title 31, United States Code. The Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States shall have access to all books, documents, papers, or other records that are pertinent to the activities carried out under this section in order to make audit examinations, excerpts, and transcripts.

"(D) The comprehensive plan, any amendments to the comprehensive plan, and the annual statement shall, once approved by the Secretary, be binding upon the Secretary and the public housing agency. The Secretary may order corrective action only if the public housing agency does not comply with subparagraph (A) or (B) or if an audit under subparagraph (C) reveals findings that the Secretary reasonably believes require such corrective action. The Secretary may withhold funds under this section only if the public housing agency fails to take such corrective action after notice and a reasonable opportunity to do so. In administering this section, the Secretary shall, to the greatest extent possible, respect the professional judgment of the administrators of the public housing agency.".

(e) ELIGIBLE COSTS.—Section 14(f) of the United States Housing Act of 1937 (as so redesignated by this section) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in the matter preceding paragraph (1), by inserting after "public housing agency" the following: "that owns or operates less than 500 public housing dwelling units";

(3) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D); and

(4) by adding at the end the following new paragraph:

"(2) A public housing agency that owns or operates 500 or more public housing dwelling units may use financial assistance received under subsection (b) only—

"(A) to undertake activities described in its approved comprehensive plan under subsection (e)(1) or its annual statement under subsection (e)(3);

"(B) to correct conditions that constitute an immediate threat to the health or safety of tenants and to meet special purpose needs described in section 14(i)(1)(D), whether or not the need for such correction is indicated in its comprehensive plan or annual statement; and

"(C) to prepare a comprehensive plan under subsection (e)(1), including reasonable costs that may be necessary to assist tenants in participating in the planning process in a meaningful way, an annual statement under subsection (e)(3), an annual performance and evaluation report under subsection (e)(4)(A), and an audit under subsection (e)(4)(C).".

(f) ALLOCATION OF ASSISTANCE.—Section 14 of the United States Housing Act is amended by adding at the end the following new subsection:

"(k)(1) Until the Congress establishes by law a revised method for allocating assistance under this section, assistance shall be allocated under this section in substantial accordance with the allocation method in effect on the date of the enactment of the Housing and Community Development Act of 1987.

"(2) Not later than 1 year after the date of the enactment of the Housing and Community Development Act of 1987, the Secretary shall—

"(A) complete the study of the need for public housing modernization initiated pursuant to the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Pub. L. 98-45) and any other studies that are necessary to evaluate the current condition and capital requirements of public housing as well as the future need for rehabilitation and replacement of public housing facilities;

"(B) submit to the Congress proposed methods for determining the relative allocation of funds between activities to correct existing deficiencies and the annual accrual of resources to meet future needs;

"(C) submit to the Congress proposed alternatives for allocating funds among public housing agencies to correct existing deficiencies, including formulas for distributing funds to public housing agencies, to regional and field offices of the Department of Housing and Urban Development, or to States, as well as such other allocation methods as the Secretary may wish to recommend;

"(D) provide the Congress with—

"(i) an analysis of data and other information used to develop recommendations for measuring existing deficiencies, future needs, and anticipated emergencies;

"(ii) an analysis of the bases underlying each of the proposed allocation methods; and

"(iii) a comparison of proposed allocations to previous allocations under this section;

"(E) propose to the Congress criteria for distinguishing capital replacement activities that are routine from those that are not routine;

"(F) propose to the Congress alternative methods—

"(i) to allocate funds to public housing agencies to meet predictable routine modernization and regular capital replacement expenses; and

"(ii) provide for unpredictable, infrequent, or extraordinary future capital replacement needs through a fund administered on a national, regional, State, or local level or through such other methods as the Secretary may recommend;

"(G) consult at least on a quarterly basis with organizations and individuals representing public housing agencies, local government, and tenants regarding progress on the studies referred to in subparagraph (A) and the development of alternatives for improving this section; and

"(H) estimate, for not less than the 200 largest public housing agencies, the amount that will be received annually under each such alternative allocation system and compare such amounts to funds received in prior years under this section.".

(g) ANNUAL REPORT.—Section 14 of the United States Housing Act (as amended by subsection (f) of this section) is further amended by adding at the end the following new subsection:

"(l) The Secretary shall include in the annual report under section 8 of the Department of Housing and Urban Development Act—

"(1) a description of the allocation, distribution, and use of assistance under this section on a regional basis and on the basis of public housing agency size; and

"(2) a national compilation of the total funds requested in comprehensive plans for all public housing agencies owning or operating 500 or more public housing dwelling units.".

(h) REGULATIONS.—Section 14 of the United States Housing Act (as amended by subsection (g) of this section) is further amended by adding at the end the following new subsection:

"(m) Subject to subsection (k)(1), the Secretary may issue any regulations that are necessary to carry out this section.".

(i) CONFORMING AMENDMENTS.—

(1) Section 14(d) of the United States Housing Act of 1937 is amended in the matter preceding paragraph (1) by striking "subsection (e)(4)" and inserting "subsection (f)(4)".

(2) Section 14(i)(1) of the United States Housing Act of 1937 is amended in the matter preceding subparagraph (A) by inserting "(f)," after "(e),".

(3) Section 14(f) of the United States Housing Act of 1937 (as so redesignated by this section) is amended by striking "annual".

(4) Section 14(g) of the United States Housing Act of 1937 is amended by inserting "or (e)" after "subsection (d)(4)".

(5) Section 14(h)(2) of the United States Housing Act of 1937 is amended by inserting "or (e)" after "subsection (d)(4)".

(6) Section 14(i) of the United States Housing Act of 1937 is amended by striking "subsections (c), (d), (e), (g), and (h)" and inserting "subsections (c) through (h)".

SEC. 120. COMPREHENSIVE IMPROVEMENT ASSISTANCE SPECIAL PURPOSE NEEDS.

Section 14(i)(1)(D) of the United States Housing Act of 1937 is amended—

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

(2) by redesignating clauses (i) and (ii) and clauses (I) and (II), respectively;

(3) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new clause:

"(ii) physical improvement needs eligible under this subparagraph shall include replacing or repairing major equipment systems or structural elements, upgrading security, increasing accessibility for elderly families and handicapped families (as such terms are defined in section 3(b)(3)), reducing the number of vacant substandard units, and increasing the energy efficiency of the units, except that the Secretary may make financial assistance available under this clause only if the Secretary determines that the physical improvements are necessary and sufficient to extend substantially the useful life of the project.".

SEC. 121. PUBLIC HOUSING DEMOLITION AND DISPOSITION.

(a) DETERMINATION OF INFEASIBILITY OF MODIFICATIONS.—Section 18(a)(1) of the United States Housing Act of 1937 is amended by striking "or" after "purposes," and inserting "and".

(b) DEVELOPMENT AND APPROVAL OF REPLACEMENT HOUSING PLAN.—Section 18(b) of the United States Housing Act of 1937 is amended—

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

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

(3) by adding at the end of the following new paragraph:

"(3) the public housing agency has developed a plan for the provision of an additional decent, safe, sanitary, and affordable dwelling unit for each public housing dwelling unit to be demolished or disposed under such application, which plan—

"(A) provides for the provision of such additional dwelling units through—

"(i) the acquisition or development of additional public housing dwelling units;

"(ii) the use of 15-year project-based assistance under section 8;

"(iii) the use of not less than 15-year project-based assistance under other Federal programs;

"(iv) the acquisition or development of dwelling units assisted under a State or local government program that provides for project-based assistance comparable in terms of eligibility, contribution to rent, and length of assistance contract (not less than 15 years) to assistance under section 8(b)(1);

"(v) the use of 15-year tenant-based assistance under section 8 (excluding vouchers under section 8(o)); or

"(vi) any combination of such methods;

"(B) if it provides for the use of tenant-based assistance under section 8, may be approved—

"(i) only after a finding by the Secretary that replacement with project-based assistance is not feasible, and the supply of private rental housing actually available to those who would receive such assistance under the plan is sufficient for the total number of certificates and vouchers available in the community after implementation of the plan and that such supply is likely to remain available for the full 15-year term of the assistance; and

"(ii) only if such finding is based on objective information, which shall include rates of participation by landlords in the section 8 program, size, conditions and rent levels of available rental housing as compared to section 8 standards, the supply of vacant existing housing meeting the section 8 quality standards with rents at or below the fair market rent or the likelihood of adjusting the fair market rent, the number of eligible families waiting for public housing or housing assistance under section 8, and the extent of discrimination against the types of individuals or families to be served by the assistance;

"(C) is approved by the unit of general local government in which the project is located;

"(D) includes a schedule for completing the plan within a period consistent with the size of the proposed demolition or disposition, except that the schedule shall in no event exceed 6 years;

"(E) includes a method of ensuring that the same number of individuals and families will be provided housing;

"(F) provides for the payment of the relocation expenses of each tenant to be displaced and ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this Act; and

"(G) prevents the taking of any action to demolish or dispose of any unit until the tenant of the unit is relocated to decent, safe, sanitary, and affordable housing that is, to the extent practicable, of the tenant's choice.".

(c) FUNDING OF REPLACEMENT HOUSING PLAN.—Section 18(c) of the United States Housing Act of 1937 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraphs:

"(2) The Secretary shall, upon approving a plan under subsection (b)(3), agree to commit (subject to the availability of future appropriations) the funds necessary to carry out the plan over the approved schedule of the plan.

"(3) The Secretary shall, in allocating assistance for the acquisition or development of public housing or for moderate rehabilitation under section 8(e)(2), give consideration to housing that replaces demolished public housing units in accordance with a plan under subsection (b)(3).".

(d) APPLICABILITY.—Section 18 of the United States Housing Act of 1937 is amended by striking subsection (d) and inserting the following new subsection:

"(d) A public housing agency shall not take any action to demolish or dispose of a public housing project or a portion of a public housing project without obtaining the approval of the Secretary and satisfying the conditions specified in subsections (a) and (b).".

SEC. 122. PUBLIC HOUSING RESIDENT MANAGEMENT.

The United States Housing Act of 1937 is amended by adding at the end the following new section:

"PUBLIC HOUSING RESIDENT MANAGEMENT

"SEC. 20. (a) PURPOSE.—The purpose of this section is to encourage increased resident management of public housing projects, as a means of improving existing living conditions in public housing projects, by providing increased flexibility for public housing projects 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 project' 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 management program, the elected resident council of a public housing project shall approve the establishment of a resident management corporation. When such approval is made by the elected resident council of a building or row house area, the resident management program shall not interfere with the rights of other families residing in the project or harm the efficient operation of the project. 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. The corporation shall be a nonprofit corporation organized under the laws of the State in which the project is located, and the tenants of the project shall be the sole voting members of the corporation. If there is no elected resident council, a majority of the households of the public housing project shall approve the establishment of a resident council to determine the feasibility of establishing a resident management corporation to manage the project.

"(2) PUBLIC HOUSING MANAGEMENT SPECIALIST.—The resident council of a public housing project, in cooperation with the public housing agency, 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 project.

"(3) BONDING AND INSURANCE.—Before assuming any management responsibility for a public housing project, the resident management corporation shall provide fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements of the Secretary and the public housing agency. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the resident management corporation or its employees.

"(4) 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 public housing agency, shall enter into a contract with the public housing agency establishing the respective management rights and responsibilities of the corporation and the public housing agency. Such contract shall be consistent with the requirements of this Act applicable to public housing projects and may include specific

terms governing management personnel and compensation, access to public housing project records, submission of and adherence to budgets, rent collection procedures, tenant income verification, tenant eligibility determinations, tenant 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 and shall be subject to any provision of a collective bargaining agreement regarding contracting out to which the public housing agency is subject.

"(5) ANNUAL AUDIT.—The books and records of a resident management corporation operating a public housing project shall be audited annually by a certified public accountant. A written report of each audit shall be forwarded to the public housing agency and the Secretary.

"(c) COMPREHENSIVE IMPROVEMENT ASSISTANCE.—Public housing projects managed by resident management corporations may be provided with comprehensive improvement assistance under section 14 for purposes of renovating such projects in accordance with such section. If such renovation activities (including the planning and architectural design of the rehabilitation) are administered by a resident management corporation, the public housing agency 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 public housing agency, and after notice and an opportunity to comment is afforded to the affected tenants, the Secretary may waive (for both the resident management corporation and the public housing agency) 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 project.

"(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 project to volunteer a portion of their labor.

"(3) REPORT ON ADDITIONAL WAIVERS.—Not later than 6 months after the date of the enactment of the Housing and Community Development Act of 1987, the Secretary shall submit to the Congress a report setting forth any additional waivers of Federal law that the Secretary determines are necessary or appropriate to carry out the provisions of this section. In preparing the report, the Secretary shall consult with resident management corporations and public housing agencies.

"(4) EXCEPTIONS.—The Secretary may not waive under this subsection any requirement with respect to income eligibility for purposes of section 16, rental payments under section 3(a), tenant or applicant protections, employee organizing rights, or rights of employees under collective bargaining agreements.

"(e) OPERATING SUBSIDY AND PROJECT INCOME.—

"(1) CALCULATION OF OPERATING SUBSIDY.—Notwithstanding any provision of section 9 or any regulation under such section, and subject to the exception provided in paragraph (3), the portion of the operating subsidy received by a public housing agency under section 9 that is allocated to a public housing project managed by a resident management corporation shall not be less than the public housing agency per unit monthly amount provided in the previous year as determined on an individual project basis.

"(2) CONTRACT REQUIREMENTS.—Any contract for management of a public housing project entered into by a public housing agency and a resident management corporation shall specify the amount of income expected to be derived from the project itself (from sources such as rents and charges) and the amount of income funds to be provided to the project from the other sources of income of the public housing agency (such as operating subsidy under section 9, interest income, administrative fees, and rents).

"(3) CALCULATION OF TOTAL INCOME.—

"(A) Subject to subparagraph (B), the amount of funds provided by a public housing agency to a public housing project managed by a resident management corporation may not be reduced during the 3-year period beginning on the date of enactment of the Housing and Community Development Act of 1987 or on any later date on which a resident management corporation is first established for the project.

"(B) If the total income of a public housing agency (including the operating subsidy provided to the public housing agency under section 9) is reduced or increased, the income provided by the public housing agency to a public housing project managed by a resident management corporation shall be reduced or increased in proportion to the reduction or increase in the total income of the public housing agency, except that any reduction in operating subsidy that occurs as a result of fraud, waste, or mismanagement by the public housing agency shall not affect the funds provided to the resident management corporation.

"(4) RETENTION OF EXCESS REVENUES.—

"(A) Any income generated by a resident management corporation of a public housing project that exceeds the income estimated for purposes of this subsection shall be excluded in subsequent years in calculating (i) the operating subsidies provided to the public housing agency under section 9; and (ii) the funds provided by the public housing agency to the resident management corporation.

"(B) Any revenues retained by a resident management corporation under subparagraph (A) shall be used for purposes of improving the maintenance and operation of the public housing project, for establishing business enterprises that employ residents of public housing, or for acquiring additional dwelling units for lower income families.

"(f) RESIDENT MANAGEMENT TECHNICAL ASSISTANCE AND TRAINING.—

"(1) FINANCIAL ASSISTANCE.—To the extent budget authority is available for section 14, 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 projects, and the securing of such support.

"(2) LIMITATION ON ASSISTANCE.—The financial assistance provided under this subsection with respect to any public housing project may not exceed $100,000.

"(3) FUNDING.—Of the amounts available for financial assistance under section 14, the Secretary may use to carry out this subsection not more than $2,500,000 for fiscal year 1988 and not more than $2,500,000 for fiscal year 1989.

"(f) ASSESSMENT AND REPORT BY THE SECRETARY.—Not later than 3 years after the date of the enactment of the Housing and Community Development Act of 1987, 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.".

SEC. 123. PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.

The United States Housing Act of 1937 (as amended by section 122 of this Act) is further amended by adding at the end the following new section:

"PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES

"SEC. 21. (a) HOMEOWNERSHIP OPPORTUNITIES IN GENERAL.—Lower income families residing in a public housing project shall be provided with the opportunity to purchase the dwelling units in the project through a qualifying resident management corporation as follows:

"(1) FORMATION OF RESIDENT MANAGEMENT CORPORATION.—As a condition for public housing homeownership—

"(A) the adult residents of a public housing project shall have formed a resident management corporation in accordance with regulations and requirements of the Secretary prescribed under this section and section 20;

"(B) the resident management corporation shall have entered into a contract with the public housing agency establishing the respective management rights and responsibilities of the resident management corporation and the public housing agency; and

"(C) the resident management corporation shall have demonstrated its ability to manage public housing effectively and efficiently for a period of not less than 3 years.

"(2) HOMEOWNERSHIP ASSISTANCE.—

"(A) The Secretary may provide comprehensive improvement assistance under section 14 to a public housing project in which homeownership activities under this section are conducted.

"(B) The Secretary, and the public housing agency owning and operating a public housing project, shall provide such training, technical assistance, and educational assistance as the Secretary determines to be necessary to prepare the families residing in the project, and any resident management corporation established under paragraph (1), for homeownership.

"(C) This paragraph shall not have effect after September 30, 1990.

"(3) CONDITIONS OF PURCHASE BY A RESIDENT MANAGEMENT CORPORATION.—

"(A) A resident management corporation may purchase from a public housing agency one or more multifamily buildings in a public housing project following a determination by the Secretary that—

"(i) the resident management corporation has met the conditions of paragraph (1);

"(ii) the resident management corporation has applied for and is prepared to undertake the ownership, management, and maintenance of the building or buildings with continued assistance from the Secretary;

"(iii) the public housing agency has held one or more public hearings to obtain the views of citizens regarding the proposed purchase and, in consultation with the Secretary, has certified that the purchase will not interfere with the rights of other families residing in public housing, will not harm the efficient operation of other public housing, and is in the interest of the community;

"(iv) the public housing agency has certified that it has and will implement a plan to replace public housing units sold under this section within 30 months of the sale, which plan shall provide for replacement of 100 percent of the units sold under this section by—

"(I) production, acquisition, or rehabilitation of vacant public housing units by the public housing agency; and

"(II) acquisition by the resident management corporation of nonpublicly owned, decent, and affordable housing units, which the resident management corporation shall operate as rental housing subject to tenant income and rent limitations comparable to the limitations applicable to public housing; and

"(v) the building or buildings meet the minimum safety and livability standards applicable under section 14, and the physical condition, management, and operation of the building or buildings are sufficient to permit affordable homeownership by the families residing in the project.

"(B) The price of a building purchased under the preceding sentence shall be approved by the Secretary, in consultation with the public housing agency and resident management corporation, taking into account the fair market value of the property, the ability of resident families to afford and maintain the property, and such other factors as the Secretary determines to be consistent with increasing the supply of dwelling units affordable to very low income families.

"(C) This paragraph shall not have effect after September 30, 1990.

"(4) CONDITIONS OF RESALE.—

"(A)(i) A resident management corporation may sell a dwelling unit or ownership rights in a dwelling unit only to a lower income family residing in, or eligible to reside in, public housing and only if the Secretary determines that the purchase will not interfere with the rights of other families residing in the housing project or harm the efficient operation of the project, and the family will be able to purchase and maintain the property.

"(ii) The sale of dwelling units or ownership rights in dwelling units under clause (i) shall be made to families in the following order of priority:

"(I) a lower income family residing in the public housing project in which the dwelling unit is located;

"(II) a lower income family residing in any public housing project within the jurisdiction of the public housing agency having jurisdiction with respect to the project in which the dwelling unit is located;

"(III) a lower income family receiving Federal housing assistance and residing in the jurisdiction of such public housing agency; and

"(IV) a lower income family on the waiting list of such public housing agency for public housing or assistance under section 8, with priority given in the order in which the family appears on the waiting list.

"(iii) Each resident management corporation shall provide each family described in clause (ii) with a notice of the eligibility of the family to purchase a dwelling unit under this paragraph.

"(B) A purchase under subparagraph (A) may be made under any of the following arrangements:

"(i) Limited dividend cooperative ownership.

"(ii) Condominium ownership.

"(iii) Fee simple ownership.

"(iv) Shared appreciation with a public housing agency providing financing under paragraph (6).

"(v) Any other arrangement determined by the Secretary to be appropriate.

"(C) Property purchased under this section shall be resold only to the resident management corporation, a lower income family residing in or eligible to reside in public housing or housing assisted under section 8, or to the public housing agency.

"(D) In no case may the owner receive consideration for his or her interest in the property that exceeds the total of—

"(i) the contribution to equity paid by the owner;

"(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the owner during the owner's tenure as owner; and

"(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost of living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the resident management corporation or the public housing agency, whichever is appropriate, at the time of initial sale, and applied against the contribution to equity; the resident management corporation or the public housing agency may, at the time of initial sale, enter into an agreement with the owner to set a maximum amount which this appreciation may not exceed.

"(E) Upon sale, the resident management corporation or the public housing agency, whichever is appropriate, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

"(5) USE OF PROCEEDS.—Notwithstanding any other provision of this Act or other law to the contrary, proceeds from the sale of a building or buildings under paragraph (3) and amounts recaptured under paragraph (4) shall be paid to the public housing agency and shall be retained and used by the public housing agency only to increase the number of public housing units available for occupancy. The resident management corporation shall keep and make available to the public housing agency and the Secretary all records necessary to calculate accurately payments due the local housing agency under this section. The Secretary shall not reduce or delay payments under other provisions of law as a result of amounts made available to the local housing agency under this section.

"(6) FINANCING.—When financing for the purchase of the property is not otherwise available for purposes of assisting any purchase by a family or resident management corporation under this section, the public housing agency involved may make a loan on the security of the property involved to the family or resident management corporation at a rate of interest that shall not be lower than 70 percent of the market interest rate for conventional mortgages on the date on which the loan is made.

"(7) ANNUAL CONTRIBUTIONS.—Notwithstanding the purchase of a building in a public housing project under this section, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 5(a).

"(8) OPERATING SUBSIDIES.—Operating subsidies shall not be available with respect to a building after the date of its sale by the public housing agency.

"(b) PROTECTION OF NONPURCHASING FAMILIES.—

"(1) EVICTION PROHIBITION.—No family residing in a dwelling unit in a public housing project may be evicted by reason of the sale of the project to a resident management corporation under this section.

"(2) TENANTS RIGHTS.—Families renting a dwelling unit purchased by a resident management corporation shall have all rights provided to tenants of public housing under this Act.

"(3) RENTAL ASSISTANCE.—If any family resides in a dwelling unit in a building purchased by a resident management corporation, and the family decides not to purchase the dwelling unit, the Secretary shall offer to provide to the family (at the option of the family) a certificate under section 8(b)(1) or a housing voucher under section 8(o) for as long as the family continues to reside in the building. The Secretary may adjust the fair market rent for such certificate to take into account conditions under which the building was purchased.

"(4) RENTAL AND RELOCATION ASSISTANCE.—If any family resides in a dwelling unit in a public housing project in which other dwelling units are purchased under this section, and the family decides not to purchase the dwelling unit, the Secretary shall offer (to be selected by the family, at its option)—

"(A) to assist the family in relocating to a comparable appropriate sized dwelling unit in another public housing project, and to reimburse the family for their cost of relocation; and

"(B) to provide to the family the financial assistance necessary to permit the family to stay in the dwelling unit or to move to another comparable dwelling unit and to pay no more for rent than required under subparagraph (A), (B), or (C) of section 3(a)(1).

"(c) FINANCIAL ASSISTANCE FOR PUBLIC HOUSING AGENCIES.—The Secretary shall provide to public housing agencies such financial assistance as is necessary to permit such agencies to carry out the provisions of this section.

"(d) ADDITIONAL HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.—This section shall not apply to the turnkey III, the mutual help, or any other homeownership program established under section 5(h) or section 6(c)(4)(D) and in existence before the date of the enactment of the Housing and Community Development Act of 1987.

"(e) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section. Such regulations may establish any additional terms and conditions for homeownership or resident management under this section that are determined by the Secretary to be appropriate.

"(f) ANNUAL REPORT.—The Secretary shall annually submit to the Congress a report setting forth—

"(1) the number, type, and cost of units sold;

"(2) the income, race, gender, children, and other characteristics of families purchasing or moving and not purchasing;

"(3) the amount and type of financial assistance provided;

"(4) the need for subsidy to ensure continued affordability and meet future maintenance and repair costs;

"(5) any need for the development of additional public housing dwelling units as a result of the sale of public housing dwelling units under this section;

"(6) recommendations of the Secretary for additional budget authority to carry out such development;

"(7) recommendations of the Secretary to ensure decent homes and decent neighborhoods for lower income families; and

"(8) the recommendations of the Secretary for statutory and regulatory improvements to the program.

"(g) LIMITATION.—Any authority of the Secretary under this section to provide financial assistance, or to enter into contracts to provide financial assistance, shall be effective only to such extent or in such amounts as are or have been provided in advance in an appropriation Act.".

SEC. 124. TREATMENT OF CERTAIN PUBLIC HOUSING DEVELOPMENT FUNDS.

(a) FORGIVENESS OF CERTAIN INTEREST.—Notwithstanding any other provision of law or other requirement, any interest accruing on any excess funds advanced to the Housing Authority of the City of Pittsburgh, in the State of Pennsylvania, for development of the public housing project numbered PA-1-22 shall be forgiven, and any such interest paid to the Secretary of Housing and Urban Development before the date of the enactment of this Act shall be returned to such City.

(b) FORGIVENESS OF CERTAIN PAYMENTS.—Notwithstanding any other provision of law or other requirement, the Secretary of Housing and Urban Development may not require the Bay City Housing Commission in the State of Michigan to pay any amount relating to ineligible costs incurred with respect to the public housing development grant numbered Michigan 24-7, awarded in 1974, under the United States Housing Act of 1937.

(c) SUBJECT TO APPROPRIATIONS.—This section shall be effective only to the extent approved in appropriation Acts.

SEC. 125. ENERGY EFFICIENT PUBLIC HOUSING DEMONSTRATION.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish a demonstration program through the assistance of an appropriate technology transfer organization that specializes in producing detailed energy-efficient designs and in conducting local and statewide, public participation tests for energy efficient, needs-oriented housing. The appropriate technology organization shall carry out the demonstration working through and with public housing agencies to build and test a variety of energy-efficient housing designs in 100 separate housing units in 4 different States that meet local lower income housing needs (including single parent, disabled, and elderly concerns) through a composite ranging from single to 12-plex units in the cluster approach on vacant lots and open areas.

(b) REPORT.—As soon as practicable following September 30, 1988, the Secretary of Housing and Urban Developme.t shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this section.

(c) FUNDING.—Of the budget authority authorized to be provided for the development of public housing, there is authorized to be appropriated to carry out this section $4,700,000 for fiscal year 1988.

SEC. 126. PUBLIC HOUSING COMPREHENSIVE TRANSITION DEMONSTRATION.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall carry out a program to demonstrate the effectiveness of providing a comprehensive program of services to participating public housing residents in order to ensure the successful transition of such residents to private housing. In carrying out the demonstration program, the Secretary shall consult with the heads of other appropriate Federal agencies to design and implement procedures to carry out the transition from public housing.

(b) SCOPE OF DEMONSTRATION PROGRAM.—The Secretary shall carry out the demonstration program with respect to public housing administered by the Housing Authority of the City of Charlotte, in the State of North Carolina. The Secretary may also carry out the demonstration program with respect to public housing administered by not more than 10 additional public housing agencies.

(c) REQUIREMENTS OF DEMONSTRATION PROGRAM.—The demonstration program shall consist of the following requirements:

(1) CONTRACT OF PARTICIPATION.—Each participating public housing agency may enter into a voluntary contract with any family that is to commence residence in a public housing project administered by the public housing agency. The contract shall be made part of the lease, shall set forth the provisions of the demonstration program, and shall specify the resources to made available to the participating family and the responsibilities of the participating family.

(2) REMEDIATION PHASE.—

(A) During not to exceed the first 2 years of residence of a participating family in public housing, the public housing agency shall ensure the provision of remediation services to the family in accordance with the terms and conditions of the contract of participation, which may include—

(i) remedial education;

(ii) completion of high school;

(iii) job training and preparation;

(iv) substance abuse treatment and counseling;

(v) training in homemaking skills and parenting; and

(vi) training in money management.

(B) During the remediation phase, the amount of rent charged the family may not be increased on the basis of any increase in earned income of the family.

(3) TRANSITION PHASE.—

(A) During not to exceed a 5-year period following completion of the remediation stage—

(i) the head of the family shall be required to have full-time employment; and

(ii) the public housing agency shall ensure the provision of counseling for the family with respect to homeownership, money management, and problem solving.

(B) During the transition phase, the amount of rent charged the family—

(i) may be increased on the basis of any increase in family income; and

(ii) may not be decreased on the basis of any decrease in earned income due to voluntary termination of employment.

(4) ENCOURAGEMENT OF SAVINGS.—The public housing agency shall take appropriate actions (including the establishment of an escrow savings account) to encourage each participating family to save funds during the remediation and transition phases.

(5) EFFECT OF INCREASES IN FAMILY INCOME.—

(A) Any increase in the earned income of a family during participation in the demonstration program under this section may not be considered as income or a resource for the purpose of denying the eligibility of, or reducing the amount of benefits payable to, the family under any other Federal law, unless the income of the family increases at any time to not less than 50 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

(B) If at any time during the participation of a family in the demonstration program the income of the family increases to not less than 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families), the participation of the family in the demonstration program shall terminate.

(6) COMPLETION OF TRANSITION.—Each family participating in the demonstration program shall be required to complete the transition out of public housing during a period of not more than 7 years. The public housing agency shall extend the period for any family that requests an extension for good cause.

(d) REPORTS TO CONGRESS.—

(1) INTERIM REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to the Congress an interim report evaluating the effectiveness of the demonstration program under this section.

(2) FINAL REPORT.—Not later than 60 days after the termination of the demonstration program under subsection (f), the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program under this section.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

(f) TERMINATION OF DEMONSTRATION PROGRAM.—The demonstration program under this section shall terminate upon the expiration of the 7-year period beginning on the date of the enactment of this Act.

PART 3—SECTION 8 ASSISTANCE AND OTHER PROGRAMS

SEC. 141. SECTION 8 CONTRACTS FOR EXISTING DWELLING UNITS.

Section 8(b)(1) of the United States Housing Act of 1937 is amended by inserting after the first sentence the following new sentence: "The Secretary shall enter into a separate annual contributions contract with each public housing agency to obligate the authority approved each year, beginning with the authority approved in appropriations Acts for fiscal year 1988 (other than amendment authority to increase assistance payments being made using authority approved prior to the appropriations Acts for fiscal year 1988), and such annual contributions contract (other than for annual contributions under subsection (o)) shall bind the Secretary to make such authority, and any amendments increasing such authority, available to the public housing agency for a specified period.".

SEC. 142. SECTION 8 FAIR MARKET RENTALS AND CONTRACT RENTS.

(a) ANNUAL ADJUSTMENT.—Section 8(c)(1) of the United States Housing Act of 1937 is amended by inserting before the last sentence the following new sentence: "Each fair market rental in effect under this sub-

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 the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section.".

(b) CALCULATION FOR CERTAIN COUNTY.—Section 8(c)(1) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "The Secretary shall establish separate fair market rentals under this paragraph for Westchester County in the State of New York.".

(c) COMPARABILITY.—

(1) Section 8(c)(1) of the United States Housing Act of 1937 (as amended by subsection (b) of this section) is further amended by adding at the end the following new sentence: "If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.".

(2) Section 8(c)(2)(C) of the United States Housing Act of 1937 is amended—

(A) by striking "assisted and comparable unassisted units" and inserting the following: "assisted units and unassisted units of similar quality and age in the same market area"; and

(B) by adding at the end the following new sentence: "If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied.".

(d) PROHIBITION ON REDUCTION OF CERTAIN CONTRACT RENTS.—Section 8(c)(2)(C) of the United States Housing Act of 1937 (as amended by subsection (c) of this section) is further amended by adding at the end the following new sentence: "The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner.".

(e) REPEAL OF LIMIT ON CONTRACT RENT INCREASES.—Section 8(c)(2) of the United States Housing Act of 1937 is amended by striking subparagraph (D).

SEC. 143. HOUSING VOUCHER PROGRAM.

(a) OPERATION.—Section 8(o) of the United States Housing Act of 1937 is amended—

(1) in the first sentence of paragraph (1), by striking "In" and all that follows through "demonstration program" and inserting "The Secretary may provide assistance";

(2) by striking paragraph (4); and

(3) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively.

(b) FLEXIBILITY TO ADJUST ASSISTANCE PAYMENTS.—Section 8(o)(6) of the United States Housing Act of 1937 (as so redesignated by subsection (a) of this section) is amended—

(1) in subparagraph (A), by striking "as frequently as twice during any five-year period" and inserting "annually"; and

(2) by striking subparagraph (D).

(c) USE OF VOUCHERS IN CONNECTION WITH COOPERATIVE AND MUTUAL HOUSING.—Section 8(o)(7) of the United States Housing Act of 1937 (as so redesignated by subsection (a) of this section) is amended by striking "not to exceed 5 per centum of the amount of".

(d) ADJUSTMENT POOLS.—Section 8(o) of the United States Housing Act of 1937 (as amended by subsection (a) of this section) is further amended by adding at the end the following new paragraph:

"(8) The Secretary may set aside up to 5 percent of the budget authority available under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool for adjustments pursuant to paragraph (6)(A) to ensure continued affordability where the Secretary determines additional assistance for this purpose is necessary, based on documentation submitted by a public housing agency.".

SEC. 144. ADMINISTRATIVE FEES FOR SECTION 8 CERTIFICATE AND HOUSING VOUCHER PROGRAMS.

Section 8 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(q)(1) The Secretary shall establish a fee for the costs incurred in administering the certificate and housing voucher programs under subsections (b) and (o). The amount of the fee for each month for which a dwelling unit is covered by an assistance contract shall be 8.2 percent of the fair market rental established under subsection (c)(1) for a 2-bedroom existing rental dwelling unit in the market area of the public housing agency. The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

"(2)(A) The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

"(i) the costs of preliminary expenses (not to exceed $275) that the public housing agency documents it has incurred in connection with new allocations of assistance under the certificate and housing voucher programs under subsections (b) and (o);

"(ii) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

"(iii) extraordinary costs approved by the Secretary.

"(B) The method used to calculate fees under subparagraph (A) shall be the same for the certificate and housing voucher programs under subsections (b) and (o) and shall take into account local cost differences.

"(3) The Secretary may establish or increase a fee in accordance with this subsection only to such extent or in such amounts as are provided in appropriation Acts.".

SEC. 145. PORTABILITY OF SECTION 8 CERTIFICATES AND VOUCHERS.

Section 8 of the United States Housing Act of 1937 (as amended by section 144 of this Act) is further amended by adding at the end the following new subsection:

"(r)(1) Any family assisted under subsection (b) or (o) may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within the same, or a contiguous, metropolitan statistical area as the metropolitan statistical area within which is located the area of jurisdiction of the public housing agency approving such assistance.

"(2) The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this subsection with respect to the family. If no public housing agency has authority with respect to the dwelling unit to which a family moves under this subsection, the public housing agency approving the assistance shall have such responsibility.

"(3) In providing assistance under subsection (b) or (o) for any fiscal year, the Secretary shall give consideration to any reduction in the number of resident families incurred by a public housing agency in the preceding fiscal year as a result of the provisions of this subsection.

"(4) The provisions of this subsection may not be construed to restrict any authority of the Secretary under any other provision of law to provide for the portability of assistance under this section.".

SEC. 146. PROHIBITION OF DENIAL OF SECTION 8 CERTIFICATES AND VOUCHERS TO RESIDENTS OF PUBLIC HOUSING.

Section 8 of the United States Housing Act of 1937 (as amended by section 145 of this Act) is further amended by adding at the end the following new subsection:

"(s) In selecting families for the provision of assistance under this section (including subsection (o)), a public housing agency may not exclude or penalize a family solely because the family resides in a public housing project.".

SEC. 147. NONDISCRIMINATION AGAINST SECTION 8 CERTIFICATE HOLDERS AND VOUCHER HOLDERS.

Section 8 of the United States Housing Act of 1937 (as amended by section 146 of this Act) is further amended by adding at the end the following new subsection:

"(t)(1) No owner who has entered into a contract for housing assistance payments under this section on behalf of any tenant in a multifamily housing project shall refuse—

"(A) to lease any available dwelling unit in any multifamily housing project of such owner that rents for an amount not greater than the fair market rent for a comparable unit, as determined by the Secretary under this section, to a holder of a certificate of eligibility under this section a proximate cause of which is the status of such prospective tenant as a holder of such certificate, and to enter into a housing assistance payments contract respecting such unit; or

"(B) to lease any available dwelling unit in any multifamily housing project of such owner to a holder of a voucher under subsection (o), and to enter into a voucher contract respecting such unit, a proximate cause of which is the status of such prospective tenant as holder of such voucher.

"(2) For purposes of this subsection, the term 'multifamily housing project' means a residential building containing more than 4 dwelling units.".

SEC. 148. PROJECT-BASED SECTION 8 ASSISTANCE.

Section 8(d)(2) of the United States Housing Act of 1937 is amended by inserting before the period at the end of the last sentence the following: ", except that the Secretary shall permit the public housing agency to approve such attachment with respect to not more than 15 percent of the assistance provided by the public housing agency if the requirements of clause (B) are met".

SEC. 149. SECTION 8 ASSISTANCE FOR RESIDENTS OF RENTAL REHABILITATION PROJECTS.

Section 8 of the United States Housing Act of 1937 (as amended by section 147 of

this Act) is further amended by adding at the end the following new subsection:

"(u) In the case of lower income families living in rental projects rehabilitated under section 17 of this Act or section 533 of the Housing Act of 1949 before rehabilitation—

"(1) certificates or vouchers under this section shall be made for families who are required to move out of their units because of the physical rehabilitation activities or because of overcrowding; and

"(2) at the discretion of each public housing agency or other agency administering the allocation of assistance, certificates or vouchers under this section may be made for families who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or to move from, the project.".

SEC. 150. RENTAL REHABILITATION GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 17(a)(3) of the United States Housing Act of 1937 is amended to read as follows:

"(3) AUTHORIZATION.—There are authorized to appropriated for rental rehabilitation under this section $125,000,000 for each of the fiscal years 1988 and 1989, of which $1,500,000 shall be available each fiscal year for technical assistance, including the collection, processing, and dissemination of program information useful for local and national program management.".

(b) ELIGIBLE PROPERTY.—Section 17(a)(1)(A) of the United States Housing Act of 1937 is amended by inserting after "property" the following: ", or of real property that will be privately owned upon the completion of rehabilitation,".

(c) MAXIMUM GRANT AMOUNT.—Section 17(c)(2)(E) of the United States Housing Act of 1937 is amended by striking "$5,000 per unit" and inserting the following: "$5,000 per unit for a unit with no bedrooms, $6,500 per unit for a unit with 1 bedroom, $7,500 per unit for a unit with 2 bedrooms, and $8,500 per unit for a unit with 3 or more bedrooms,".

(d) USE OF FUNDS.—Section 17(c) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(4) USE OF FUNDS TO COMPLY WITH SEISMIC STANDARDS.—If a unit of general local government has a local ordinance that requires rehabilitation to meet seismic standards, the unit of local government may use all rehabilitation assistance received under this section to rehabilitate units with no bedroom or 1 bedroom, if the occupants of the units will have incomes that do not exceed 50 percent of the median income of the area.".

(e) ADMINISTRATIVE EXPENSES.—Section 17(h) of the United States Housing Act of 1937 is amended by inserting before the period at the end the following: ", except that not more than 10 percent of any rehabilitation grant received under subsection (c) may be retained to cover administrative expenses incurred by any State administering resources made available under subsection (b) (which State shall share such amount with units of general local government administering the program with the State) and by any city or urban county receiving resources under subsection (b)".

(f) ELIGIBILITY.—Section 17(k)(4) of the United States Housing Act of 1937 is amended—

(1) by inserting "privately owned" before "real property";

(2) by inserting "(A)" after "includes"; and

(3) by inserting before the semicolon at the end the following: ", and (B) housing that is owned by a State or locally chartered, neighborhood based, nonprofit organization the primary purpose of which is the provision and improvement of housing".

SEC. 151. RENTAL DEVELOPMENT GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 17(a)(3) of the United States Housing Act of 1937 (as amended by section 150 of this Act) is further amended by adding at the end the following new sentence: "There are authorized to be appropriated for development grants under this section $75,000,000 for fiscal year 1988 and $75,000,000 for fiscal year 1989.".

(b) AREA ELIGIBILITY.—Section 17(d)(2) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law, the eligibility requirements for development grants under this section shall be the requirements in effect under this subsection on October 17, 1986.".

(c) GRANT AMOUNT.—Section 17(d)(4)(B) of the United States Housing Act of 1937 is amended by striking "refinancing costs and".

(d) PROGRAM REQUIREMENTS.—Section 17(d)(4) of the United States Housing Act of 1937 is amended—

(1) by inserting before the semicolon at the end of subparagraph (G) the following: ", except that the Secretary may extend such period by not more than 6 months if the commencement of such activities is delayed due to judicial or administrative proceedings";

(2) by striking "and" at the end of subparagraph (G);

(3) by striking the period at the end of subparagraph (H) and inserting "; and"; and

(4) by adding at the end the following new subparagraph:

"(I) the owner of each assisted structure agrees to comply with the provisions of paragraph (8) until the 20-year period specified in paragraph (7) has ended.".

(e) DEVELOPMENT COST.—Section 17(d) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(10) DEVELOPMENT COST.—

"(A) The Secretary shall include in the development cost of a project assisted under this subsection any developer's fee if such fee—

"(i) is included in a mortgage secured by the project; and

"(ii) the lender is a State housing finance agency or the project is financed by bonds issued by a State housing finance agency or similar local entity.

"(B) The amount of any developer's fee shall not be counted in calculating the maximum grant amount pursuant to paragraph (4)(B).

"(C) This paragraph shall only be applicable to projects with respect to which a notice of project selection is received before the date of the enactment of the Housing and Community Development Act of 1987.".

SEC. 152. TERMINATION OF RENTAL DEVELOPMENT GRANT PROGRAM.

(a) IN GENERAL.—Effective on October 1, 1989, the rental development grant program under section 17(d) of the United States Housing Act of 1937 shall terminate.

(b) SAVINGS PROVISION.—The provisions of subsection (a) shall not apply with respect to any housing development grant under section 17(d) of the United States Housing Act of 1937 made pursuant to a reservation of funds made by the Secretary of Housing and Urban Development before October 1, 1989.

Subtitle B—Other Housing Assistance Programs

SEC. 161. HOUSING FOR THE ELDERLY AND HANDICAPPED.

(a) BORROWING AUTHORITY.—The first sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended—

(1) by striking "and" the first place it appears; and

(2) by inserting after "1984," the following: "and to such sums as may approved in appropriation Acts for fiscal years 1988 and 1989,".

(b) LOAN AUTHORITY.—Section 202(a)(4)(C) of the Housing Act of 1959 is amended by adding at the end the following new sentence: "For fiscal years 1988 and 1989, not more than $621,701,000 and $630,000,000, respectively, may be approved in appropriation Acts for such loans.".

(c) INTEREST RATE ON LOANS.—

(1) CALCULATION OF RATE.—Section 202(a)(3) of the Housing Act of 1959 is amended—

(A) by inserting "(A)" after the paragraph designation;

(B) by striking all that follows "Secretary" the second place it appears through "loan is made" and inserting the following: "taking into consideration the average yield, during the 3-month period immediately preceding the fiscal year in which the loan is made, on the most recently issued 30-year marketable obligations of the United States"; and

(C) by adding at the end the following new subparagraph:

"(B) At the option of the borrower, a loan under this section may be made and may be processed for a conditional or firm commitment either (i) at an interest rate not to exceed a rate and allowance determined by the Secretary in accordance with subparagraph (A) using the 1-month period immediately prior to the month in which the request for a commitment is submitted; or (ii) at an interest rate not to exceed a rate and allowance determined by the Secretary in accordance with subparagraph (A) using the 3-month period immediately preceding the fiscal year in which the request for a commitment is submitted.".

(2) MAXIMUM RATE.—Section 223(a) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking paragraph (2).

(d) INTEREST RATE ON NOTES.—The second sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended to read as follows: "Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the average yield, during the 3-month period immediately preceding the fiscal year in which the loan is made, on the most recently issued 30-year marketable obligations of the United States.".

(e) APPEAL OF CANCELLATION OF LOAN AUTHORITY.—Section 202 of the Housing Act of 1959 is amended by adding at the end the following new subsection:

"(n) The Secretary shall notify the project sponsor not less than 30 days prior to canceling any loan authority provided under this section. During the 30-day period following the receipt of a notice under paragraph (1), a sponsor may appeal the proposed cancellation of loan authority. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.".

(f) PRIORITY.—Section 202(a) of the Housing Act of 1959 is amended by adding at the end the following new paragraph:

"(8) In reviewing applications for loans under this section, the Secretary shall give a priority to any project that will provide housing designed to replace a structure that is owned by a public housing agency, contains not less than 100 dwelling units, is used for housing only elderly families, and is to be demolished. The requirements of this paragraph shall not apply after September 30, 1988.".

SEC. 162. HOUSING FOR THE HANDICAPPED.

(a) FINDINGS AND PURPOSE.—

(1) The Congress finds that—

(A) housing for nonelderly handicapped families is assisted under section 202 of the Housing Act of 1959 and section 8 of the United States Housing Act of 1937;

(B) the housing programs under such sections are designed and implemented primarily to assist rental housing for elderly and nonelderly families and are often inappropriate for dealing with the specialized needs of the physically impaired, the developmentally disabled, and the chronically mentally ill;

(C) the development of housing for nonelderly handicapped families under such programs is often more expensive than necessary, thereby reducing the number of such families that can be assisted with available funds;

(D) the program under section 202 of the Housing Act of 1959 can continue to provide direct loans to finance group residences and independent apartments for nonelderly handicapped families, but can be made more efficient and less costly by the adoption of standards and procedures applicable only to housing for such families;

(E) the cost containment policies currently being implemented in the development of small group homes (i) do not adequately reflect the necessity for building designs to meet the needs of the designated residents; and (ii) do not recognize necessary State and local standards for the operation of such homes;

(F) the use of the program under section 8 of the United States Housing Act of 1937 to assist rentals for housing for nonelderly handicapped families is time consuming and unnecessarily costly and, in some areas of the Nation, prevents the development of such housing;

(G) the use of the program under section 8 of the United States Housing Act of 1937 to assist rentals for housing for nonelderly handicapped families should be replaced by a more appropriate subsidy mechanism;

(H) both elderly and handicapped housing projects assisted under section 202 of the Housing Act of 1959 will benefit from an increased emphasis on supportive services and a greater use of State and local funds; and

(I) an improved program for nonelderly handicapped families will assist in providing shelter and supportive services for mentally ill persons who might otherwise be homeless.

(2) The purpose of this section is to improve the direct loan program under section 202 of the Housing Act of 1959 to ensure that such program meets the special housing and related needs of nonelderly handicapped families.

(b) HOUSING FOR HANDICAPPED FAMILIES.—

(1) Section 202(h) of the Housing Act of 1959 is amended to read as follows:

"(h)(1) Of the amounts made available in appropriation Acts for loans under subsection (a)(4)(C) for any fiscal year commencing after September 30, 1987, not less than 15 percent shall be available for loans for the development costs of housing for handicapped families. If the amount required for any such fiscal year for approvable applications for loan under this subsection is less than the amount available under this paragraph, the balance shall be made available for loans under other provisions of this section.

"(2) The Secretary shall take such actions as may be necessary to ensure that—

"(A) funds made available under this subsection will be used to support a variety of methods of meeting the needs primarily of nonelderly handicapped families by providing a variety of housing options, ranging from small group homes to independent living complexes; and

"(B) housing for handicapped families assisted under this subsection will provide families occupying units in such housing with an assured range of services specified in subsection (f), will provide such families with opportunities for optimal independent living and participation in normal daily activities, and will facilitate access by such families to the community at large and to suitable employment opportunities within such community.

"(3)(A) In allocating funds under this subsection, and in processing applications for loans under this section and assistance payments under paragraph (4), the Secretary shall adopt such distinct standards and procedures as the Secretary determines appropriate due to differences between housing for handicapped families and other housing assisted under this section. In adopting such standards, the Secretary shall ensure adequate participation by representatives of the disability community through the provisions available under the Federal Advisory Committee Act.

"(B) The Secretary may, on a demonstration basis, determine the feasibility and desirability of reducing processing time and costs for housing for handicapped families by limiting project design to a small number of prototype designs. Any such demonstration shall be limited to the 3-year period following the date of the enactment of the Housing and Community Development Act of 1987, may only involve projects whose sponsors consent to participation in such demonstration, and shall be described in a report submitted by the Secretary to the Congress following completion of such demonstration.

"(4)(A) The Secretary shall, to the extent approved in appropriation Acts, enter into contracts with owners of housing for handicapped families receiving loans under, or meeting the requirements of, this section to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by lower income families that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The term of a contract entered into under this subparagraph shall be 240 months. The annual contract amount may be adjusted by the Secretary if the sum of the project income and the amount of assistance payments available under this subparagraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility in which there reside families assisted under title XIX of the Social Security Act, project income under this subparagraph shall include the same amount as if such families were being assisted under title XVI of the Social Security Act.

"(B) The Secretary shall approve initial project rentals for any project assisted under this subsection based on the determination of the Secretary of the total actual necessary and reasonable costs of developing and operating the project, excluding the costs of the assured range of services under subsection (f), taking into consideration the need to contain costs to the extent practicable and consistent with the purposes of the project and this section.

"(C) The Secretary shall require that, during the term of each contract entered into under subparagraph (A), all units in a project assisted under this subsection shall be made available for occupancy by lower income families, as such term is defined in section 3(b)(2) of the United States Housing Act of 1937. The rent payment required of a lower income family shall be determined in accordance with section 3(a) of such Act, except that the gross income of a family occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the family were being assisted under title XVI of the Social Security Act.

"(D) The Secretary shall coordinate the processing of an application for a loan for housing for handicapped families under this section and the processing of an application for assistance payments under this paragraph for such housing.".

(2) Section 202(d) of the Housing Act of 1959 is amended by adding at the end the following new paragraphs:

"(9) The term 'housing for handicapped families' means housing and related facilities to be occupied by handicapped families who are primarily nonelderly handicapped families.

"(10) The term 'nonelderly handicapped families' means elderly or handicapped families, the head of which (and spouse, if any) is less than 62 years of age at the time of initial occupancy of a project assisted under this section.".

(3) Section 202(c)(3) of the Housing Act of 1959 is amended by inserting after "section" the following: "and designed for dwelling use by 12 or more elderly or handicapped families".

(c) SUPPORTIVE SERVICES FOR ELDERLY AND HANDICAPPED FAMILIES.—Section 202(f) of the Housing Act of 1959 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) Each applicant for a loan under this section for housing and related facilities shall submit with the application a supportive services plan describing—

"(A) the category or categories of families such housing and facilities are intended to serve;

"(B) the range of necessary services to be provided to the families occupying such housing;

"(C) the manner in which such services will be provided to such families; and

"(D) the extent of State and local funds available to assist in the provision of such services.".

(d) TERMINATION OF SECTION 8 ASSISTANCE.—On and after the first date that amounts approved in an appropriation Act

for any fiscal year become available for contracts under section 202(h)(4)(A) of the Housing Act of 1959, as amended by subsection (b) of this section, no project for handicapped (primarily nonelderly) families approved for such fiscal year pursuant to section 202 of such Act shall be provided assistance payments under section 8 of the United States Housing Act of 1937, except pursuant to a reservation for a contract to make such assistance payments that was made before the first date that amounts for contracts under such section 202(h)(4)(A) became available.

(e) IMPLEMENTATION.—Not later than the expiration of the 120-day period following the date of the enactment of this Act, the Secretary of Housing and Urban Development shall, to the extent amounts are approved in an appropriation Act for use under section 202(h)(4)(A) of the Housing Act of 1959 for fiscal year 1988, publish in the Federal Register a notice of fund availability to implement the provisions of, and amendments made by, this section. The Secretary shall issue such rules as may be necessary to carry out such provisions and amendments for fiscal year 1989 and thereafter.

(f) EFFECTIVE DATE AND APPLICABILITY.—

(1) Except as otherwise provided in this section, the provisions of, and amendments made by, this section shall not apply with respect to projects with loans or loan reservations made under section 202 of the Housing Act of 1959 before the implementation date under subsection (e).

(2) Notwithstanding paragraph (1), the Secretary shall apply the provisions of, and amendments made by, this section to any project if needed to facilitate the development of such project in a timely manner.

SEC. 163. CONGREGATE SERVICES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 411(a) of the Congregate Housing Services Act of 1978 is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this title $10,000,000 for each of the fiscal years 1988 and 1989.".

(b) DELETION OF REFERENCE TO PROGRAM AS NONPERMANENT.—Section 408 of the Congregate Housing Services Act of 1978 is amended by striking subsection (c).

(c) REPORT.—Section 408 of the Congregate Housing Services Act of 1978 (as amended by subsection (b) of this section) is further amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall contract with a university or qualified research institution to produce a report—

"(A) documenting the number of elderly living in federally assisted housing at risk of institutionalization;

"(B) studying and comparing alternative delivery systems in the States, including the congregate housing services program, to provide services to older persons in assisted congregate housing;

"(C) assessing existing and potential financial resources at the Federal, State, and local levels for the support of congregate housing services; and

"(D) making legislative recommendations as to the feasibility of permitting State housing agencies and other appropriate State agencies to participate and operate the program on a matching grant basis.

"(2) The Secretary shall submit the report to the Congress not later than September 30, 1988.".

SEC. 164. MODIFICATION OF RESTRICTION ON USE OF ASSISTED HOUSING BY ALIENS.

(a) ALIENS ADMITTED FOR LAWFUL RESIDENCE.—Section 214(a) of the Housing and Community Development Act of 1980 is amended—

(1) by striking "or" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(6) an alien lawfully admitted for temporary or permanent residence under section 245A of the Immigration and Nationality Act.".

(b) PRESERVATION OF FAMILIES.—Section 214 of the Housing and Community Development Act of 1980 is amended by inserting after subsection (b) the following new subsection:

"(c)(1) If, following completion of the applicable hearing process, financial assistance for any individual receiving such assistance on the date of the enactment of the Housing and Community Development Act of 1987 is to be terminated, the public housing agency or other local governmental entity involved (in the case of public housing or assistance under section 8 of the United States Housing Act of 1937) or the Secretary of Housing and Urban Development (in the case of any other financial assistance) may, in its discretion, take one of the following actions:

"(A) Permit the continued provision of financial assistance, if necessary to avoid the division of a family in which the head of household or spouse is a citizen of the United States, a national of the United States, or an alien resident of the United States described in any of paragraphs (1) through (6) of subsection (a). For purposes of this paragraph, the term 'family' means a head of household, any spouse, any parents of the head of household, any parents of the spouse, and any children of the head of household or spouse.

"(B) Defer the termination of financial assistance, if necessary to permit the orderly transition of the individual and any family members involved to other affordable housing. Any deferral under this subparagraph shall be for a 6-month period and may be renewed by the public housing agency or other entity involved for an aggregate period of 3 years. At the beginning of each deferral period, the public housing agency or other entity involved shall inform the individual and family members of their ineligibility for financial assistance and offer them other assistance in finding other affordable housing.

"(2) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of—

"(A) any alien who—

"(i) has a residence in a foreign country that such alien has no intention of abandoning;

"(ii) is a bona fide student qualified to pursue a full course of study; and

"(iii) is admitted to the United States temporarily and solely for purposes of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by such alien and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student (and if any such institution of learning or place of study fails to make such reports promptly the approval shall be withdrawn); and

"(B) the alien spouse and minor children of any alien described in subparagraph (A), if accompanying such alien or following to join such alien.".

(c) VERIFICATION PROCEDURES.—Section 214(d) of the Housing and Community Development Act of 1980 (as added by section 121(a)(2) of the Immigration Reform and Control Act of 1986 (Public Law 99-603)) is amended—

(1) in paragraph (2), by inserting after "States" the following: ", is not 62 years of age or older, and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987";

(2) in paragraph (4), in the matter before subparagraph (A)—

(A) by inserting after "States" the following: ", is not 62 years of age or older, and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987"; and

(B) by inserting "or recertification" after "application";

(3) in paragraph (4)(A)(i), by inserting after the comma the following: "or to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service under paragraph (3),";

(4) in paragraph (4)(B), by striking the matter before clause (i) and inserting the following:

"(B) if any documents or additional information are submitted as evidence under subparagraph (A), or if appeal is made to the Immigration and Naturalization Service with respect to the verification determination of the Service under paragraph (3)—";

(5) in paragraph (4)(B)(i), by inserting "or additional information" after "documents";

(6) in paragraph (4)(B)(ii), by inserting "or appeal" after "verification";

(7) by inserting after paragraph (5) the following new paragraph:

"(6) For purposes of paragraph (5)(B), the applicable fair hearing process made available with respect to any individual shall include not less than the following procedural protections:

"(A) The Secretary shall provide the individual with written notice of the determination described in paragraph (5) and of the opportunity for a hearing with respect to the determination.

"(B) Upon timely request by the individual, the Secretary shall provide a hearing before an impartial hearing officer designated by the Secretary, at which hearing the individual may produce evidence of a satisfactory immigration status.

"(C) The Secretary shall notify the individual in writing of the decision of the hearing officer on the appeal of the determination in a timely manner.

"(D) Financial assistance may not be denied or terminated until the completion of the hearing process."; and

(8) by striking the last sentence and inserting the following: "For purposes of this subsection, the term 'Secretary' means the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance.".

(d) ENFORCEMENT PROCEDURES.—Section 214(e) of the Housing and Community Development Act of 1980 (as added by section 121(a)(2) of the Immigration Reform and

Control Act of 1986 (Public Law 99-603)) is amended—

(1) in the matter before paragraph (1), by inserting "of Housing and Urban Development" after "Secretary";

(2) in paragraph (2), by inserting after "(d)(4)(A)(ii)" the following: "(or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603))";

(3) in paragraph (3), by inserting after "(d)(4)(B)(ii)" the following: "(or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603))"; and

(4) in paragraph (4), by inserting after "(d)(5)(B)" the following: "(or provided for under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603))".

(e) VERIFICATION SYSTEM.—Section 214 of the Housing and Community Development Act of 1980 (as amended by section 121(a)(2) of the Immigration Reform and Control Act of 1986 (Public Law 99-603)) is amended by adding at the end the following new subsection:

"(f)(1) Notwithstanding any other provision of law, no agency or official of a State or local government shall have any liability for the design or implementation of the Federal verification system described in subsection (d) if the implementation by the State or local agency or official is in accordance with Federal rules and regulations.

"(2) The verification system of the Department of Housing and Urban Development shall not supersede or affect any consent agreement entered into or court decree or court order entered prior to the date of the enactment of the Housing and Community Development Act of 1987.".

(f) REIMBURSEMENT FOR COSTS OF IMPLEMENTATION.—

(1) Section 214 of the Housing and Community Development Act of 1980 (as amended by subsection (e) of this section) is further amended by adding at the end the following new subsection:

"(g) The Secretary of Housing and Urban Development is authorized to pay to each public housing agency or other entity an amount equal to 100 percent of the costs incurred by the public housing agency or other entity in implementing and operating an immigration status verification system under subsection (d) (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)).".

(2) The United States Housing Act of 1937 (as amended by section 121(b)(6) of the Immigration Reform and Control Act of 1986 (Public Law 99-603)) is amended by striking section 20.

(g) TRANSITIONAL CERTIFICATION AND DOCUMENTATION PROVISIONS.—In carrying out section 214 of the Housing and Community Development Act of 1980 during fiscal year 1988, the Secretary of Housing and Urban Development shall require, as a condition of providing financial assistance for the benefit of any individual, that such individual—

(1) declare in writing, under penalty of perjury, whether or not such individual is a citizen or national of the United States; and

(2) if not a citizen or national—

(A) declare in writing, under penalty of perjury, the immigration status of such individual, if such individual is not less than 62 years of age "and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987"; or

(B) provide such documentation regarding the immigration status of such individual as the Secretary may require by regulation.

(h) EFFECTIVE DATES.—

(1) The provisions of, and amendments made by, subsections (a), (b), (e), (f), and (g) shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (c) and (d) shall take effect on October 1, 1988.

SEC. 165. PREVENTING FRAUD AND ABUSE IN DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROGRAMS.

(a) DISCLOSURE OF SOCIAL SECURITY ACCOUNT NUMBER.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to ensure that the level of benefits provided under such programs is proper, the Secretary of Housing and Urban Development may require that an applicant or participant (including members of the household of an applicant or participant) disclose his or her social security account number or employer identification number to the Secretary.

(b) DEFINITIONS.—For purposes of this section, the terms "applicant" and "participant" shall have such meanings as the Secretary of Housing and Urban Development by regulation shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials or officers of lending institutions.

SEC. 166. ANNUAL REPORT ON CHARACTERISTICS OF FAMILIES IN ASSISTED HOUSING.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall include in the annual report under section 8 of the Housing and Urban Development Act descriptions of the characteristics of families assisted under each of the following programs of assistance: public housing, section 8 of the United States Housing Act of 1937 (other than subsection (o) of such section), section 8(o) of the United States Housing Act of 1937, and section 202 of the Housing Act of 1959.

(b) SPECIFIC REQUIREMENTS.—The descriptions required in subsection (a) shall include information with respect to—

(1) family size, including the number of children;

(2) amount and sources of family income;

(3) the age, race, and sex of family members; and

(4) whether the head of the family (or the spouse of such person) is a member of the armed forces.

SEC. 167. SECTION 236 RENTAL HOUSING PROGRAM.

(a) STATE-AIDED PROJECTS.—

(1) Section 236(f)(4) of the National Housing Act is amended by striking "90 per centum" and inserting "100 percent".

(2) Section 101(g) of the Housing and Urban Development Act of 1965 is amended by striking "90 per centum" and inserting "100 percent".

(b) INSURING AUTHORITY.—Section 236(n) of the National Housing Act is amended by adding at the end the following new sentence: "A mortgage may be insured under this section after the date in the preceding sentence in order to refinance a mortgage insured under this section or to finance pursuant to subsection (j)(3) the purchase, by a cooperative or nonprofit corporation or association, of a project assisted under this section.".

SEC. 168. TENANT ELIGIBILITY DETERMINATIONS IN RENT SUPPLEMENT PROJECTS.

Section 101 of the Housing and Urban Development Act of 1965 is amended—

(1) by striking the second sentence of subsection (e)(1); and

(2) by striking subsection (k) and inserting the following:

"(k) In selecting individuals or families to be assisted under this section in accordance with the eligibility criteria and procedures established under subsection (e)(1), the project owner shall give preference to individuals or families who are occupying substandard housing, are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking housing assistance under this section.".

SEC. 169. COUNSELING TO TENANTS AND HOMEOWNERS.

(a) COUNSELING SERVICES.—Section 106(a)(3) of the Housing and Urban Development Act of 1968 is amended in the first sentence by striking all that follows the semicolon and inserting the following: "except that for each of the fiscal years 1988 and 1989 there are authorized to be appropriated $3,500,000 for such purposes.".

(b) EMERGENCY HOMEOWNERSHIP COUNSELING.—Section 106 of the Housing and Urban Development Act of 1968 is amended by inserting at the end the following new subsection:

"(c) GRANTS FOR HOMEOWNERSHIP COUNSELING ORGANIZATIONS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may make grants—

"(A) to nonprofit organizations experienced in the provision of homeownership counseling to enable the organizations to provide homeownership counseling to eligible homeowners; and

"(B) to assist in the establishment of nonprofit homeownership counseling organizations.

"(2) PROGRAM REQUIREMENTS.—

"(A) Applications for grants under this subsection shall be submitted in the form, and in accordance with the procedures, that the Secretary requires.

"(B) The homeownership counseling organizations receiving assistance under this subsection shall use the assistance only to provide homeownership counseling to eligible homeowners.

"(C) The homeownership counseling provided by homeownership counseling organizations receiving assistance under this subsection shall include counseling with respect to—

"(i) financial management;

"(ii) available community resources, including public assistance programs, mortgage assistance programs, home repair assistance programs, utility assistance programs, food programs, and social services; and

"(iii) employment training and placement.

"(3) AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—The Secretary shall take any action that is necessary—

"(A) to ensure the availability throughout the United States of homeownership counseling from homeownership counseling or-

ganizations receiving assistance under this subsection, with priority to areas that—

"(i) are experiencing high rates of home foreclosure and any other indicators of homeowner distress determined by the Secretary to be appropriate; and

"(ii) are not already adequately served by homeownership counseling organizations; and

"(B) to inform the public of the availability of the homeownership counseling.

"(4) ELIGIBILITY FOR COUNSELING.—A homeowner shall be eligible for homeownership counseling under this subsection if—

"(A) the home loan is secured by property that is the principal residence (as defined by the Secretary) of the homeowner;

"(B) the home loan is not assisted under title V of the Housing Act of 1949; and

"(C) the homeowner is, or is expected to be, unable to make payments, correct a home loan delinquency within a reasonable time, or resume full home loan payments due to a reduction in the income of the homeowner because of—

"(i) an involuntary loss of, or reduction in, the employment of the homeowner, the self-employment of the homeowner, or income from the pursuit of the occupation of the homeowner; or

"(ii) any similar loss or reduction experienced by any person who contributes to the income of the homeowner.

"(5) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING REQUIREMENT.—The creditor of a delinquent home loan shall notify an eligible homeowner of the availability of any homeownership counseling offered by the creditor. As a supplement to the counseling provided by the creditor, the creditor shall notify the homeowner of the availability of 1 of the following:

"(A) Homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling.

"(B) A list of the nonprofit organizations, approved by the Secretary and experienced in the provision of homeownership counseling, that can be obtained by calling a toll-free telephone number at the Department of Housing and Urban Development.

"(C) Homeownership counseling provided by the Administrator of Veterans' Affairs for loans insured or guaranteed under chapter 37 of title 38, United States Code.

"(6) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'creditor' means a person or entity that is servicing a home loan on behalf of itself or another person or entity.

"(B) The term 'eligible homeowner' means a homeowner eligible for counseling under paragraph (4).

"(C) The term 'home loan' means a loan secured by a mortgage or lien on residential property.

"(D) The term 'homeowner' means a person who is obligated under a home loan.

"(E) The term 'residential property' means a 1-family residence, including a 1-family unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

"(7) REGULATIONS.—The Secretary shall issue any regulations that are necessary to carry out this subsection.

"(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $3,500,000 for each of the fiscal years 1988 and 1989. Any amount appropriated under this subsection shall remain available until expended.

"(9) TERMINATION.—The provisions of this subsection shall not be effective after September 30, 1989.".

SEC. 170. HOUSING ASSISTANCE TECHNICAL AMENDMENTS.

(a) SECTION 235 HOMEOWNERSHIP ASSISTANCE.—Section 235(i)(3)(C) of the National Housing Act is amended by inserting an opening parenthesis before "including".

(b) RENTAL HOUSING FOR LOWER INCOME FAMILIES.—The last sentence of section 236(i)(1) of the National Housing Act is amended by striking "(h)" and inserting "(f)(4)".

(c) DEFINITION OF DISABILITY.—Section 3(b)(3)(A) of the United States Housing Act of 1937 is amended—

(1) by striking "or" the first place it appears and inserting a comma; and

(2) by striking "or in section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970" and inserting the following: ", has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7))".

(d) LOWER INCOME HOUSING.—

(1) The first sentence of section 6(a) of the United States Housing Act of 1937 is amended by inserting "The" before "Secretary".

(2) Section 6(c)(4)(A) of the United States Housing Act of 1937 is amended—

(A) by striking "or are paying more than 50 per centum of family income for rent"; and

(B) by inserting ", are paying more than 50 percent of family income for rent," after "substandard housing".

(3) Paragraphs (4) and (5) of section 6(k) of the United States Housing Act of 1937 are amended by striking "his" each place it appears and inserting "their".

(e) HOUSING DEVELOPMENT GRANTS.—Section 17(d)(7)(A) of the United States Housing Act of 1937 is amended by striking "title" and inserting "subsection".

(f) PUBLIC HOUSING DEMOLITION AND DISPOSITION.—Section 18(b) of the United States Housing Act of 1937 is amended in the matter preceding paragraph (1) by inserting "or" after "section".

(g) HOUSING FOR THE ELDERLY AND HANDICAPPED.—

(1) The third sentence of section 202(d)(4) of the Housing Act of 1959 is amended by striking "is a developmentally disabled individual as defined in section 102(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1950" and inserting the following: "has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7))".

(2) Section 202(f) of the Housing Act of 1959 is amended by striking "section 134" and inserting "section 133".

(3) Section 202(l) of the Housing Act of 1959 is amended by striking "difference" and inserting "different".

(h) RENT SUPPLEMENTS.—Section 101(j)(1)(D) of the Housing and Urban Development Act of 1965 is amended by striking "divided" and inserting "dividend".

Subtitle C—Multifamily Housing Management and Preservation

SEC. 181. MANAGEMENT AND PRESERVATION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS.

(a) GOALS.—Section 203(a) of the Housing and Community Development Amendments of 1978 is amended by striking "(a)" and all that follows through the semicolon at the end of paragraph (1) and inserting the following:

"(a) The Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') shall manage or dispose of multifamily housing projects that are owned by the Secretary, or that are subject to a mortgage held by the Secretary that is either delinquent, under a workout agreement, or being foreclosed upon by the Secretary, in a manner that is consistent with the National Housing Act and this section and that will, in the least costly fashion among the reasonable alternatives available, further the goals of—

"(1) preserving so that they are available to and affordable by low- and moderate-income persons—

"(A) all units in multifamily housing projects that are subsidized projects or formerly subsidized projects;

"(B) in other multifamily housing projects owned by the Secretary, at least the units that are occupied by low- and moderate-income persons or vacant; and

"(C) in all other multifamily housing projects, at least the units that are, on the date of assignment, occupied by low- and moderate-income persons;".

(b) MANAGEMENT SERVICES.—Section 203(b)(2) of the Housing and Community Development Amendments of 1978 is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) by redesignating clauses (A) through (D) as clauses (i) through (iv), respectively;

(3) by striking ", owned by the Secretary" and inserting the following: "subject to subsection (a) that is owned by the Secretary (or for which the Secretary is mortgagee in possession)";

(4) by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following new subparagraph:

"(B) to require the owner of a multifamily housing project subject to subsection (a) that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), to contract for management services for the project in the manner described in subparagraph (A).".

(c) MAINTAINING OF PROJECTS.—Section 203(c) of the Housing and Community Development Amendments of 1978 is amended to read as follows:

"(c)(1) In the case of multifamily housing projects subject to subsection (a) that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing for the longest feasible period.

"(2) In the case of any multifamily housing project subject to subsection (a) that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).".

(d) FINANCIAL ASSISTANCE.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) In carrying out the goals specified in subsection (a)(1) the Secretary shall take not less than one of the following actions:

"(1) Enter into contracts under section 8 of the United States Housing Act of 1937, to the extent budget authority is available for such section 8, with owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary. Such contracts shall provide assistance to the project involved for a period of not less than 15 years. Such contracts shall be sufficient to assist all units in subsidized or formerly subsidized projects, and all units in other projects that are occupied by lower income families eligible for assistance under such section 8 at the time of foreclosure or sale, as the case may be, and all units that are vacant at such time (which units shall be made available for such families as soon as possible). In order to make available to families any units in subsidized or formerly subsidized projects that are occupied by persons not eligible for assistance under such section 8, but that subsequently become vacant, the contract shall also provide that when any such vacancy occurs the owner involved shall lease the available unit to a family eligible for assistance under such section 8. The Secretary shall provide such contracts at contract rents that, consistent with subsection (a), provide for the rehabilitation of such project and do not exceed the most recently adjusted fair market rents for substantially rehabilitated units published by the Secretary in the Federal Register.

"(2) In accordance with the authority provided under the National Housing Act, provide purchase-money mortgages, reduce the selling price, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that will ensure that, for a period of not less than 15 years (A) the project will remain available to and affordable by low- and moderate-income persons; and (B) such persons shall pay not more than the amount payable as rent under section 3(a) of the United States Housing Act of 1937.".

(e) RIGHT OF FIRST REFUSAL.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsections (e) through (h) (as so redesignated by this section) as subsections (f) through (i); and

(2) by inserting before such subsection (f) the following new subsection:

"(e) Upon receipt of a bona fide offer to purchase a project subject to subsection (a), the Secretary shall notify the local government and the State housing finance agency (or other agency or agencies designated by the Governor) of the proposed terms and conditions of the offer, including the assistance that the Secretary plans to make available to the prospective purchaser. The local government and the designated State agency shall have 90 days to match the offer and purchase the project. In administering the right of first refusal provided in this subsection, the Secretary shall offer assistance to the local government or designated State agency on terms and conditions at least as favorable as made available to the prospective purchaser. Notwithstanding any other provision of law to the contrary, a local government (including a public housing agency) or designated State agency may purchase a subsidized project or formerly subsidized project in accordance with this subsection.".

(f) DISPLACEMENT PROTECTION.—Section 203(f)(1) of the Housing and Community Development Amendments of 1978 (as so redesignated by this section) is amended—

(1) by striking "owned by the Secretary" and inserting the following: "subject to subsection (a) that is owned by the Secretary (or for which the Secretary is mortgagee in possession)"; and

(2) by adding at the end the following new sentence: "In the case of a multifamily housing project subject to subsection (a) that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.".

(g) LIMITATIONS ON CERTAIN PROJECT, LOAN, AND MORTGAGE SALES.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsections (h) and (i) (as so redesignated by this section) as subsections (i) and (j); and

(2) by inserting before such subsection (i) the following new subsection:

"(h)(1) The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) The Secretary may not approve the sale of any subsidized project (A) that is subject to a mortgage held by the Secretary; or (B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of the loan or mortgage in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) Notwithstanding any provision of law that may require competitive sales or bidding, the Secretary may carry out negotiated sales of subsidized or formerly subsidized mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to agencies of State or local government, or groups of investors that include at least 1 such agency of State or local government, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or agencies of State or local government to act as mortgagee or owner of a beneficial interest in such mortgages in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such agency of State or local government to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best price that may be obtained for such mortgages from an agency of State or local government, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.".

(h) DEFINITIONS.—Section 203(i) of the Housing and Community Development Amendments of 1978 (as so redesignated by this section) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraphs:

"(2) For the purpose of this section, the term 'subsidized project' means a multifamily housing project receiving any of the following assistance immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

"(A) below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act;

"(B) interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act;

"(C) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(D) direct loans at below market interest rates, made under section 202 of the Housing Act of 1959 or to a multifamily housing project under section 312 of the Housing Act of 1964; or

"(E) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975) or section 8 of the United States Housing Act of 1937 (other than subsection (b)(1) of such section), without regard to whether such payments are made to all or a portion of the units in the project.

"(3) For the purpose of this section, the term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.".

SEC. 182. ACQUISITION OF INSURED MULTIFAMILY HOUSING PROJECTS.

Section 207(k) of the National Housing Act is amended by inserting after the second sentence the following new sentence: "In determining the amount to be bid, the Secretary shall act consistently with the goal established in section 203(a)(1) of the Housing and Community Development Amendments of 1978.".

SEC. 183. TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS.

(a) APPLICABILITY.—Section 202(a) of the Housing and Community Development Amendments of 1978 is amended by inserting before the period at the end the following: "or section 202 of the Housing Act of 1959".

(b) NOTICE AND COMMENT.—Section 202(b)(1) of the Housing and Community Development Amendments of 1978 is amended by striking "and the Secretary deems it appropriate" and inserting the following: "or where the Secretary proposes to sell a mortgage secured by a multifamily housing project".

(c) NONDISCRIMINATION AGAINST SECTION 8 CERTIFICATE HOLDERS AND VOUCHER HOLDERS.—No owner of a subsidized project (as defined in section 203(i)(2) of the Housing and Community Development Amendments of 1978, as amended by section 181(h) of this Act) shall refuse—

(1) to lease any available dwelling unit in any such project of such owner that rents for an amount not greater than the fair market rent for a comparable unit, as determined by the Secretary under section 8 of the United States Housing Act of 1937, to a holder of a certificate of eligibility under such section, a proximate cause of which is the status of such prospective tenant as a holder of such certificate, and to enter into a housing assistance payments contract respecting such unit; or

(2) to lease any available dwelling unit in any such project of such owner to a holder of a voucher under section 8(o) of such Act, and to enter into a voucher contract respecting such unit, a proximate cause of which is the status of such prospective tenant as holder of such voucher.

SEC. 184. MULTIFAMILY HOUSING DISPOSITION PARTNERSHIP.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—The Secretary of Housing and Urban Development (referred to in this section as the "Secretary") shall carry out a program to demonstrate the effectiveness of disposing of distressed multifamily housing projects owned by the Department of Housing and Urban Development through a partnership with State housing finance agencies. The demonstration program may be carried out with not more than 4 State housing finance agencies and shall be designed to determine the feasibility of entering into similar relationships with other State housing finance agencies.

(b) REQUIREMENTS OF DEMONSTRATION PROGRAM.—

(1) OPPORTUNITY TO PARTICIPATE IN SALE.—Not less than 30 days before offering to sell any multifamily housing project that is located in a State participating in the demonstration program and that is subject to section 204 of the Housing and Community Development Amendments of 1978, the Secretary shall—

(A) notify the State housing finance agency of the plan of the Secretary to sell the project; and

(B) provide the State housing finance agency with the option to provide the long-term financing for the sale of the project through the co-insurance program of the Secretary, if the project complies with the State laws applicable to the State housing finance agency.

(2) TERMS OF PARTICIPATION.—If the State housing finance agency agrees to participate in the sale of a project under this section, the terms of the sale shall be as follows:

(A) The State housing finance agency shall provide a loan to the purchaser of the property.

(B) The mortgage securing the loan shall be insured by the Secretary and the State housing finance agency under paragraph (3) or (4) of section 221(d) of the National Housing Act.

(C) The terms and conditions of the loan shall be consistent with the terms and conditions of the sale.

(3) COOPERATIVE AGREEMENT.—Not later than the expiration of the 3-month period beginning on the date of the enactment of this Act, the Secretary shall enter into cooperative agreements with State housing finance agencies to carry out the demonstration program under this section.

(c) TERMINATION OF DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraph (2), the demonstration program under this section shall terminate upon the expiration of the 3-year period beginning on the date of the enactment of this Act.

(2) CONTINUATION OF PROGRAM.—

(A) The Secretary may continue the demonstration program under this section after the termination date established in paragraph (1) for such additional period as the Secretary determines to be appropriate.

(B) The Secretary shall continue the demonstration program under this section with respect to any project for which the Secretary notifies the State housing finance agency under subsection (b)(1)(A) before the termination date established in paragraph (1) or under subparagraph (A).

(d) REPORT TO CONGRESS.—Not later than 6 months after the termination date established in subsection (c)(1), the Secretary shall submit to the Congress a report evaluating the effectiveness of the demonstration program under this section as a national model for the disposition of distressed multifamily housing projects owned by the Department of Housing and Urban Development.

SEC. 185. MULTIFAMILY HOUSING CAPITAL IMPROVEMENTS ASSISTANCE.

(a) PURPOSE.—Section 201(a) of the Housing and Community Development Amendments of 1978 is amended by inserting after "management," the following: "to permit capital improvements to be made to maintain certain projects as decent, safe, and sanitary housing,".

(b) ELIGIBLITY.—Section 201(c)(1)(B) of the Housing and Community Development Amendments of 1978 is amended by inserting after "is assisted under" the following: "section 23 of the United States Housing Act of 1937, as in effect immediately before January 1, 1975,".

(c) BORROWER REQUIREMENTS.—Section 201(d) of the Housing and Community Development Amendments of 1978 is amended—

(1) in paragraph (1), by inserting "or physical" after "maintain the financial"; and

(2) in paragraph (6), by striking the final period, and inserting the following: "; except that the Secretary may excuse an owner from compliance with the plan requirement set forth in this paragraph in any case in which such owner seeks only assistance for capital improvements under this section.".

(d) AMOUNT AND CONDITIONS OF ASSISTANCE.—Section 201(f) of the Housing and Community Development Amendments of 1978 is amended—

(1) in paragraph (1), by inserting after "to any project" in the matter preceding subparagraph (A) the following: "(except a project assisted only for capital improvements)"; and

(2) in paragraph (4), by inserting after "for any year" the following: "for a project (other than a project receiving assistance only for capital improvements)".

(e) REGULATIONS.—Section 201(g) of the Housing and Community Development Amendments of 1978 is amended by inserting before the period at the end the following: ", to the extent applicable.".

(f) FLEXIBLE SUBSIDY FUND.—Section 201(j) of the Housing and Community Development Amendments of 1978 is amended to read as follows:

"(j)(1) For purposes of carrying out the provisions of this section, there is hereby established in the Treasury of the United States a revolving fund, to be known as the Flexible Subsidy Fund. The Fund shall, to the extent approved in appropriation Acts, be available to the Secretary to provide assistance under this section (including assistance for capital improvements).

"(2) The Fund shall consist of (A) any amount appropriated to carry out the purposes of this section; (B) any amount repaid on any assistance provided under this section; (C) any amounts credited to the reserve fund described in section 236(g) of the National Housing Act; and (D) any other amount received by the Secretary under this section (including any amount realized under paragraph (3)).

"(3) Any amounts in the Fund determined by the Secretary to be in excess of the amounts currently required to carry out the provisions of this section shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

"(4) The Secretary may use not more than $50,000,000 from the Fund in any fiscal year for purposes of providing assistance for capital improvements in accordance with this section.".

(g) ASSISTANCE FOR CAPITAL IMPROVEMENTS.—Section 201 of the Housing and Community Development Amendments of 1978 is amended by adding at the end the following new subsections:

"(k)(1) Assistance for capital improvements under this section shall include assistance for any major repair or replacement of a capital item in a multifamily housing project, including any such repair or replacement required as a result of deferred or inadequate maintenance. Capital improvements do not include maintenance of any such item. Assistance for capital improvements under this section shall be in the form of a loan.

"(2) The owner of a project receiving assistance for capital improvements shall agree to contribute assistance to such project in such amounts, from such sources, and in such manner as the Secretary determines to be appropriate, except that—

"(A) such contribution shall not be less than 20 percent of the total estimated cost of the capital improvements involved, unless the Secretary, upon application of the owner, determines that such contribution is financially infeasible and waives or reduces such contribution to the extent necessary;

"(B) the Secretary may not require an amount to be contributed, from the reserve funds established by the owner of such projects for the purpose of making capital improvements, in excess of 50 percent of the amount of such reserve funds on the date of such loan; and

"(C) The Secretary shall waive the requirements of this paragraph if such owner is a private nonprofit corporation or an association.

"(3) The Secretary may provide assistance for capital improvements under this section if the Secretary finds that the reserve funds established by the owner of a project for the purpose of making capital improvements are insufficient to finance both the capital improvements for which such assistance is to be used and other capital improvements that are reasonably expected to be required in the near future, and such insufficiency is not the result of the failure of such owner to comply with any standard es-

tablished by the Secretary for management of such reserve funds.

"(4) In providing, and contracting to provide, assistance for capital improvements under this section, the Secretary shall—

"(A) give priority to projects that are eligible for incentives under section 224(b) of the Emergency Low Income Housing Preservation Act of 1987; and

"(B) with respect to any amounts not required for projects under subparagraph (A), give priority among other projects based on the extent to which—

"(i) the capital improvements for which such assistance is requested are immediately required;

"(ii) the projects serve as the residences of lower income families, and the extent which other suitable housing is unavailable for such families in the areas in which such projects are located;

"(iii) the capital improvements for which such assistance is requested involve the life, safety, or health of the residents of the project or involve major capital improvements in the projects; and

"(iv) the projects demonstrate the greatest financial distress, while continuing to meet the requirements of subsection (d)(1).

"(l)(1) The principal amount of any assistance for capital improvements under this section that is provided to the owner of a project shall not exceed the difference between the contribution made by the owner in accordance with subsection (k)(2) and the sum of—

"(A) the amount determined by the Secretary to be necessary for such owner to make capital improvements with respect to capital items that have failed, or are likely to deteriorate seriously or fail in the near future, in such projects;

"(B) the amount determined by the Secretary to be necessary to carry out a plan to upgrade the capital items being improved, and any other capital items determined by the Secretary to be associated with such capital items being improved and to require upgrading, to meet cost-effective energy efficiency standards prescribed by the Secretary; and

"(C) the amount determined by the Secretary to be necessary to comply with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2)(A) The term of any assistance for capital improvements in the form of a loan under this section shall not exceed the remaining term of the mortgage of the project with respect to which such loan is provided.

"(B) Each loan for capital improvements provided under this section shall bear interest at a rate determined by the Secretary to be appropriate, except that—

"(i) such rate shall not be more than 3 percentage points below a rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding date on which the loan is made, adjusted to the nearest 1/8 of 1 percent, plus an allowance adequate in the judgment of the Secretary of Housing and Urban Development to cover administrative costs and probable losses under the program; and

"(ii) such interest rate plus such allowance shall not exceed 6 percent per annum nor be less than 3 percent per annum.

"(C) Each loan for capital improvements provided under this section shall be considered to be a liability of the project involved, and shall not be dischargeable in any bankruptcy proceeding under section 727, 1141, or 1328(b) of title 11, United States Code.

"(D) The Secretary may establish such additional conditions on loans provided under this section as the Secretary determines to be appropriate.

"(E) The Secretary may provide more than one loan or assistance in any other form to any project under this section, if each loan or other assistance complies with the provisions of this section.

"(m)(1) Increases in rental payments that may occur as a result of the debt service and other expenses of a loan for capital improvements provided under this section for a project subject to a plan of action approved under subtitle B of the Emergency Low Income Housing Preservation Act of 1987 shall be governed by the rent agreements entered into under such subtitle.

"(2) In order to minimize any increases in rental payments that may occur as a result of the debt service and other expenses of a loan for capital improvements provided under this section for a project not subject to paragraph (1) and that would be incurred by lower income residents of the project involved whose rental payments are, or would as a result of such expenses be, in excess of the amount allowable if section 3(a) of the United States Housing Act of 1937 were applicable to such residents, the Secretary may take any or all of the following actions:

"(A) Provide assistance with respect to such project under section 8(b)(1) of the United States Housing Act of 1937, to the extent amounts are available for such assistance and without regard to section 16 of such Act.

"(B) Reduce the rate of interest charged on such loan to a rate of not less than 1 percent.

"(C) Increase the term of such loan to a term that does not exceed the remaining term of the mortgage on such project.

"(D) Increase the amount of assistance to be provided by the owner of such project under subsection (k)(2), if applicable, to an amount not to exceed 30 percent of the total estimated cost of the capital improvements involved.".

(h) CONFORMING AMENDMENT.—The section heading for section 201 of the Housing and Community Development Amendments of 1978 is amended by striking "OPERATING".

SEC. 186. FLEXIBLE SUBSIDY PROGRAM.

(a) USE OF SECTION 236 EXCESS RENTAL CHARGES.—Section 236(f)(3) of the National Housing Act is amended by striking "September 30, 1985" and inserting "September 30, 1989".

(b) ASSISTANCE FOR CERTAIN HOUSING PROJECTS FOR ELDERLY OR HANDICAPPED FAMILIES.

(1) Section 201(a) of the Housing and Community Development Amendments of 1978 is amended by inserting "the Housing Act of 1959," after "1937,".

(2) Section 201(c)(1)(A) of the Housing and Community Development Amendments of 1978 is amended by inserting before the semicolon at the end the following: ", or received a loan under section 202 of the Housing Act of 1959 more than 15 years before the date on which assistance is made available under this section".

TITLE II—PRESERVATION OF LOW INCOME HOUSING

Subtitle A—General Provisions

SEC. 201. SHORT TITLE.

This title may be cited as the "Emergency Low Income Housing Preservation Act of 1987".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) in the next 15 years, more than 330,000 low income housing units insured or assisted under sections 221(d)(3) and 236 of the National Housing Act could be lost as a result of the termination of low income affordability restrictions;

(2) in the next decade, more than 465,000 low income housing units produced with assistance under section 8 of the United States Housing Act of 1937 could be lost as a result of the expiration of the rental assistance contracts;

(3) some 150,000 units of rural low income housing financed under section 515 of the Housing Act of 1949 are threatened with loss as a result of the prepayment of mortgages by owners;

(4) the loss of this privately owned and federally assisted housing, which would occur in a period of sharply rising rents on unassisted housing and extremely low production of additional low rent housing, would inflict unacceptable harm on current tenants and would precipitate a grave national crisis in the supply of low income housing that was neither anticipated nor intended when contracts for these units were entered into;

(5) the loss of this affordable housing, to encourage the production of which the public has provided substantial benefits over past years, would irreparably damage hard-won progress toward such important and long-established national objectives as—

(A) providing a more adequate supply of decent, safe, and sanitary housing that is affordable to low income Americans;

(B) increasing the supply of housing affordable to low income Americans that is accessible to employment opportunities; and

(C) expanding housing opportunities for all Americans, particularly members of disadvantaged minorities;

(6) the provision of an adequate supply of low income housing has depended and will continue to depend upon a strong, long-term partnership between the public and private sectors that accommodates a fair return on investment;

(7) recent reductions in Federal housing assistance and tax benefits related to low income housing have increased the incentives for private industry to withdraw from the production and management of low income housing;

(8) efforts to retain this housing must take account of specific financial and market conditions that differ markedly from project to project;

(9) a major review of alternative responses to this threatened loss of affordable housing is now being undertaken by numerous private sector task forces as well as State and local organizations; and

(10) until the Congress can act on recommendations that will emerge from this review, interim measures are needed to avoid the irreplaceable loss of low income housing and irrevocable displacement of current tenants.

(b) PURPOSE.—It is the purpose of this title—

(1) to preserve and retain to the maximum extent practicable as housing affordable to

low income families or persons those privately owned dwelling units that were produced for such purpose with Federal assistance;

(2) to minimize the involuntary displacement of tenants currently residing in such housing; and

(3) to continue the partnership between all levels of government and the private sector in the production and operation of housing that is affordable to low income Americans.

SEC. 203. TERMINATION OF CERTAIN PROVISIONS.

(a) IN GENERAL.—Effective upon the expiration of the 2-year period beginning on the date of the enactment of this Act—

(1) subtitles B and D are repealed; and

(2) each provision of law amended by subtitle B or D is amended to read as it would without such amendment.

(b) SAVINGS PROVISION.—The repeal or amendment of any provision under subsection (a) shall have no effect on any action taken or authorized under the provision prior to such repeal or amendment.

Subtitle B—Prepayment of Mortgages Insured Under National Housing Act

SEC. 221. GENERAL PREPAYMENT LIMITATION.

(a) PRIOR APPROVAL OF PLAN OF ACTION.—An owner of eligible low income housing may prepay, and a mortgagee may accept prepayment of, a mortgage on such housing only in accordance with a plan of action approved by the Secretary of Housing and Urban Development under this subtitle.

(b) ALTERNATIVE PREPAYMENT MORATORIUM.—In the event any court of the United States or any State invalidates the requirements established in this subtitle, an owner of eligible low income housing located in the geographic area subject to the jurisdiction of such court may not prepay, and a mortgagee may not accept prepayment of, a mortgage on such housing during the 2-year period following the date of such invalidation.

SEC. 222. NOTICE OF INTENT.

An owner of eligible low income housing seeking to initiate prepayment or other changes in the status or terms of the mortgage or regulatory agreement shall file with the Secretary a notice of the intent of the owner in such form and manner as the Secretary shall prescribe. The owner shall simultaneously file the notice or intent with any appropriate State or local government agency for the jurisdiction within which the housing is located.

SEC. 223. PLAN OF ACTION.

(a) PREPARATION AND SUBMISSION.—Upon receipt of a notice of intent, the Secretary shall provide the owner with such information as the owner needs to prepare a plan of action, which information shall include a description of the Federal incentives authorized under this title. The owner shall submit the plan of action to the Secretary in such form and manner as the Secretary shall prescribe. The owner may simultaneously submit the plan of action to any appropriate State or local government agency for the jurisdiction within which the housing is located, which agency shall, in reviewing the plan, consult with representatives of the tenants of the housing.

(b) CONTENTS.—The plan of action shall include—

(1) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement, which may include a request for incentives to extend the low income use of the housing;

(2) a description of any assistance that could be provided by State or local government agencies, as determined by prior consultation between the owner and any appropriate State or local agencies;

(3) a description of any proposed changes in the low income affordability restrictions;

(4) a description of any change in ownership that is related to prepayment;

(5) an assessment of the effect of the proposed changes on existing tenants;

(6) a statement of the effect of the proposed changes on the supply of housing affordable to lower and very low income families or persons in the community within which the housing is located and in the area that the housing could reasonably be expected to serve; and

(7) any other information that the Secretary determines is necessary to achieve the purposes of this title.

(c) REVISIONS.—The owner may from time to time revise and amend the plan of action as may be necessary to obtain approval of the plan under this subtitle.

SEC. 224. INCENTIVES TO EXTEND LOW INCOME USE.

(a) AGREEMENTS BY SECRETARY.—After receiving a plan of action from an owner of eligible low income housing, the Secretary may enter into such agreements as are necessary to satisfy the criteria for approval under section 225.

(b) PERMISSIBLE INCENTIVES.—Such agreements may include one or more of the following incentives that the Secretary, after taking into account local market conditions, determines to be necessary to achieve the purposes of this title:

(1) An increase in the allowable distribution or other measures to increase the rate of return on investment.

(2) Revisions to the method of calculating equity.

(3) Increased access to residual receipts accounts or excess replacement reserves.

(4) Provision of insurance for a second mortgage under section 241(f) of the National Housing Act.

(5) An increase in the rents permitted under an existing contract under section 8 of the United States Housing Act of 1937, or (subject to the availability of amounts provided in appropriation Acts) additional assistance under such section 8 or an extension of any project-based assistance attached to the housing.

(6) Financing of capital improvements under section 201 of the Housing and Community Development Amendments of 1978.

(7) Other actions, authorized in other provisions of law, to facilitate a transfer or sale of the project to a qualified nonprofit organization, limited equity tenant cooperative, public agency, or other entity acceptable to the Secretary.

(8) Other incentives authorized in law.

SEC. 225. CRITERIA FOR APPROVAL OF PLAN OF ACTION.

(a) PLAN OF ACTION INVOLVING TERMINATION OF LOW INCOME AFFORDABILITY RESTRICTIONS.—The Secretary may approve a plan of action that involves termination of the low income affordability restrictions only upon a written finding that—

(1) implementation of the plan of action will not materially increase economic hardship for current tenants or involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available; and

(2)(A) the supply of vacant, comparable housing is sufficient to ensure that such prepayment will not materially affect—

(i) the availability of decent, safe, and sanitary housing affordable to lower income and very low-income families or persons in the area that the housing could reasonably be expected to serve;

(ii) the ability of lower income and very low-income families or persons to find affordable, decent, safe, and sanitary housing near employment opportunities; or

(iii) the housing opportunities of minorities in the community within which the housing is located; or

(B) the plan has been approved by the appropriate State agency and any appropriate local government agency for the jurisdiction within which the housing is located as being in accordance with a State strategy approved by the Secretary under section 226.

(b) PLAN OF ACTION INCLUDING INCENTIVES.—The Secretary may approve a plan of action that includes incentives only upon finding that—

(1) the package of incentives is necessary to provide a fair return on the investment of the owner;

(2) due diligence has been given to ensuring that the package of incentives is, for the Federal Government, the least costly alternative that is consistent with the full achievement of the purposes of this title; and

(3) binding commitments have been made to ensure that—

(A) the housing will be retained as housing affordable for very low-income families or persons, lower income families or persons, and moderate income families or persons for the remaining term of the mortgage;

(B) throughout such period, adequate expenditures will be made for maintenance and operation of the housing;

(C) current tenants shall not be involuntarily displaced (except for good cause);

(D) any increase in rent contributions for current tenants shall be to a level that does not exceed 30 percent of the adjusted income of the tenant or the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937, whichever is lower;

(E)(i) any resulting increase in rents for current tenants (except for increases made necessary by increased operating costs)—

(I) shall be phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

(II) shall be limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent; and

(ii) assistance under section 8 of the United States Housing Act of 1937 shall be provided if necessary to mitigate any adverse affect on current income eligible tenants; and

(F)(i) rents for units becoming available to new tenants shall be at levels approved by the Secretary that will ensure, to the extent practicable, that the units will be available and affordable to the same proportions of very low-income families or persons, lower income families or persons, and moderate income families or persons (including families or persons whose incomes are 95 percent or more of area median income) as resided in the housing as of January 1, 1987; and

(ii) in approving rents under this paragraph, the Secretary shall take into account any additional incentives provided under this subtitle and shall make provision for such annual rent adjustments as may be made necessary by future reasonable increases in operating costs.

SEC. 226. ALTERNATIVE STATE STRATEGY.

(a) CRITERIA FOR APPROVAL.—The Secretary may approve a State strategy for purposes of section 225(a) only upon finding that it is a practicable statewide strategy that ensures at a minimum that—

(1) current tenants will not be involuntarily displaced (except for good cause);

(2) housing opportunities for minorities will not be adversely affected in the communities within which the housing is located;

(3) any increase in rent for current tenants shall be to a level that does not exceed 30 percent of the adjusted income of the tenants or the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937, whichever is lower, except that any increase not necessitated by increased operating costs shall be phased in equally over not less than 3 years if such increase exceeds 10 percent;

(4) housing approved under the State strategy will remain affordable to very low-income, lower income or moderate income families and persons for not less than the remaining term of the original mortgage, if the housing is to be made available for rental, or for not less than 40 years, if the housing is to be made available for homeownership;

(5)(A) not less than 80 of all units in eligible low-income housing approved under the State strategy shall be retained as affordable to families or persons meeting the income eligibility standards for initial occupancy that applies to the housing on January 1, 1987; and

(B) not less than 60 percent of the units in any one project shall remain available and affordable to such families or persons, within which not less than 20 percent of the units shall remain available and affordable to very low income families or persons as determined by the Secretary with adjustments for smaller and larger families;

(6) expenditures for rehabilitation, maintenance and operation shall be at a level necessary to maintain the housing as decent, safe, and sanitary for the period specified in paragraph (4);

(7) not less than 25 percent of new assistance required to maintain low-income affordability in accordance with this section shall be provided through State and local actions, such as tax exempt financing, low-income tax credits, State or local tax concessions, and other incentives provided by the State or local governments; and

(8) for each unit of eligible low income housing approved under the State strategy that is not retained as affordable to families or persons meeting the income eligibility standards for initial occupancy on January 1, 1987, the State will provide with State funds 1 additional unit of comparable housing in the same market area that is available and affordable to such families or persons, and such units or funds shall be made available before the Secretary approves the State strategy.

(b) ADDITIONAL REQUIREMENTS.—

(1) The Secretary may not approve a State strategy until the State has entered into all of the agreements necessary to carry out the strategy.

(2) Each State strategy shall include any other provision that the Secretary determines to be necessary to implement an approved State strategy.

(c) IMPLEMENTATION AGREEMENTS.—The Secretary may enter into such agreements as are necessary to implement an approved State strategy, which agreements may include incentives that are authorized in other provisions of this subtitle.

SEC. 227. TIMETABLE FOR APPROVAL OF PLAN OF ACTION.

(a) NOTIFICATION OF DEFICIENCIES.—Not later than 60 days after receipt of a plan of action, the Secretary shall notify the owner in writing of any deficiencies that prevent the plan of action from being approved. If deficiencies are found, such notice shall describe alternative ways in which the plan could be revised to meet the criteria for approval.

(b) NOTIFICATION OF APPROVAL.—

(1) IN GENERAL.—Not later than 180 days after receipt of a plan of action, or such longer period as the owner requests, the Secretary shall notify the owner in writing whether the plan of action, including any revisions, is approved. If approval is withheld, the notice shall describe—

(A) the reasons for withholding approval; and

(B) the actions that could be taken to meet the criteria for approval.

(2) OPPORTUNITY TO REVISE.—The Secretary shall subsequently give the owner a reasonable opportunity to revise the plan of action and seek approval.

SEC. 228. MODIFICATION OF EXISTING REGULATORY AGREEMENTS.

(a) IN GENERAL.—If a plan of action cannot be approved within 300 days after a plan of action is submitted, the Secretary may, upon the request of the owner, modify existing regulatory agreements to—

(1) prevent involuntary displacement of current tenants (except for good cause);

(2) ensure that adequate expenditures will be made for maintenance and operation of the housing;

(3) extend any expiring project-based assistance on the housing for the term of the agreement;

(4) permit an increase in the allowable distribution that could be accommodated by a rise in rents on occupied units to rise to a level no higher than 30 percent of the adjusted income of the current tenants, as determined by the Secretary, except that rents shall not exceed the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937 and any resulting increase in rents for current tenants shall be phased in equally over a period of no less than 3 years unless such increase is less than 10 percent; and

(5) ensure that units becoming vacant during the term of the agreement are made available in accordance with section 225(b)(6).

(b) EXPIRATION.—Agreements entered into under this section shall expire upon the expiration of the 4-year period beginning on the date of the enactment of this Act. Upon the expiration of the agreements, the housing covered by the agreements shall be subject to any law then affecting low income affordability restrictions.

SEC. 229. CONSULTATIONS WITH OTHER INTERESTED PARTIES.

The Secretary shall confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of this title and shall give consideration to the views of any such agency when making determinations under section 225. The Secretary shall also confer with appropriate interested parties that the Secretary believes could assist in the development of a plan of action that best achieves the purposes of this title.

SEC. 230. RIGHT OF CONVERSION TO ALTERNATIVE PREPAYMENT SYSTEM.

Any agreement to extend low income affordability restrictions under section 225(b) shall, for 4 years from the date of the enactment of this Act, provide the owner the right to convert to any system of incentives and restrictions provided in law during such period, with such adjustments as the Secretary determines are appropriate to compensate for the value of any benefits the owner had received under this title.

SEC. 231. INSURANCE FOR SECOND MORTGAGE FINANCING.

Section 241 of the National Housing Act is amended by adding at the end the following new subsection:

"(f)(1) Notwithstanding any other provision of this section, the Secretary may, upon such terms and conditions as the Secretary may prescribe, make a commitment to insure and insure equity loans made by financial institutions approved by the Secretary. For purposes of this section, the term 'equity loan' means a loan or advance of credit to the owner of eligible low income housing (as defined in section 233 of the Emergency Low Income Housing Preservation Act of 1987) that is made for the purpose of implementing a plan of action approved under such Act.

"(2) To be eligible for insurance under this subsection, an equity loan shall—

"(A) be limited to an amount equal to 90 percent of the value of the equity in the project, as determined by the Secretary, and the Secretary, in making the determination, shall take into account that rental income for the project may rise within limits established by section 225(b) of the Emergency Low Income Housing Preservation Act of 1987;

"(B) have a maturity and provisions for amortization satisfactory to the Secretary, bear interest at such rate as may be agreed upon by the mortgagor and mortgagee, and be secured in such manner as the Secretary may require; and

"(C) contain such other terms, conditions, and restrictions as the Secretary may prescribe, including phased advances of equity loan proceeds to reflect project rent levels.

"(3) A qualified nonprofit organization or limited equity tenant cooperative corporation, when purchasing an otherwise eligible project, may constitute an owner of eligible low income housing for purposes of receiving a loan insured under this subsection.

"(4) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall be applicable to loans insured under this section, except that—

"(A) all references to the term 'mortgage' shall be construed to refer to the term 'loan' as used in this subsection;

"(B) loans involving projects covered by a mortgage insured under section 236 shall be insured under and shall be the obligation of the Special Risk Insurance Fund; and

"(C) with respect to any sale under foreclosure of a mortgage on the project that is senior to the equity loan insured under this subsection and when the equity loan is secured by a mortgage, the Secretary may—

"(i) issue regulations providing that, in order to receive insurance benefits, the insured mortgagee shall either assign the equity loan to the Secretary or bid the amount necessary to acquire the project and convey title to the project to the Secretary, in which case the insurance benefits paid by the Secretary shall include the amount bid by the mortgagee to satisfy the senior mortgage at the foreclosure sale; and

"(ii) if the equity loan has been assigned to the Secretary, bid, in addition to amounts authorized under section 207(k), any sum not in excess of the total unpaid indebtedness secured by such senior mortgage and the equity loan, plus taxes, insurance, foreclosure costs, fees, and other expenses.

"(5) A mortgagee approved by the Secretary may not withhold consent to an equity loan on a property on which that mortgagee holds a mortgage.".

SEC. 232. REPORT TO CONGRESS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report setting forth the activities carried out under this subtitle. The report shall include a description of the plans of action approved under subsections (a) and (b) of section 225 and an analysis of the extent to which the plans retain housing affordable for very low-income families or persons, lower income families or persons, and moderate income families or persons.

SEC. 233. DEFINITIONS.

For purposes of this subtitle:

(1) The term "eligible low income housing" means any housing financed by a loan or mortgage—

(A) that is—

(i) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

(ii) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act;

(iii) insured, assisted, or held by the Secretary under section 236 of the National Housing Act; or

(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

(B) that, under regulation or contract in effect before the date of the enactment of this Act, is or will within 1 year become eligible for prepayment without prior approval of the Secretary.

(2) The term "low income affordability restrictions" means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low income housing.

(3) The terms "lower income families or persons" and "very low-income families or persons" mean families or persons whose incomes do not exceed the respective levels established for lower income families and very low-income families under section 3(b)(2) of the United States Housing Act of 1937.

(4) The term "moderate income families or persons" means families or persons whose incomes are between 80 percent and 95 percent of median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(5) The term "owner" means the current or subsequent owner or owners of eligible low income housing.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "termination of low income affordability restrictions" means any elimination or relaxation of low income affordability restrictions (other than those permitted under an approved plan of action under section 225(b)).

SEC. 234. REGULATIONS.

The Secretary shall issue final regulations to carry out this subtitle not later than 60 days after the date of the enactment of this Act. The Secretary shall provide for the regulations to take effect not later than 45 days after the date on which the regulations are issued.

SEC. 235. EFFECTIVE DATE.

The requirements of this subtitle shall apply to any project that is eligible low income housing on or after November 1, 1987.

Subtitle C—Rural Rental Housing Displacement Prevention

SEC. 241. PREPAYMENT AND REFINANCING PROCEDURES.

Section 502(c) of the Housing Act of 1949 is amended by adding at the end the following new paragraphs:

"(3) NOTICE OF OFFER TO PREPAY.—Not less than 30 days after receiving an offer to prepay any loan made or insured under section 514 or 515, the Secretary shall provide written notice of the offer or request to the tenants of the housing and related facilities involved, to interested nonprofit organizations, and to any appropriate State and local agencies.

"(4)(A) AGREEMENT BY BORROWER TO EXTEND LOW INCOME USE.—Before accepting any offer to prepay, or requesting refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 514 or 515 pursuant to a contract entered into before December 21, 1979, the Secretary shall make reasonable efforts to enter into an agreement with the borrower under which the borrower will make a binding commitment to extend the low income use of the assisted housing and related facilities involved for not less than the 20-year period beginning on the date on which the agreement is executed.

"(B) ASSISTANCE AVAILABLE TO BORROWER TO EXTEND LOW INCOME USE.—To the extent of amounts provided in appropriation Acts, the agreement under subparagraph (A) may provide for 1 or more of the following forms of assistance that the Secretary, after taking into account local market conditions, determines to be necessary to extend the low income use of the housing and related facilities involved:

"(i) Increase in the rate of return on investment.

"(ii) Reduction of the interest rate on the loan through the provision of interest credits under section 521(a)(1)(B).

"(iii) Additional rental assistance, or an increase in assistance provided under existing contracts, under section 521(a)(2) or under section 8 of the United States Housing Act of 1937.

"(iv) An equity loan to the borrower under paragraphs (7) and (8) of section 515(b).

"(v) Incremental rental assistance in connection with loans under clauses (ii) and (iv) to the extent necessary to avoid increases in the rental payments of current tenants not receiving rental assistance under section 521(a)(2) or under section 8 of the United States Housing Act of 1937.

"(C) APPROVAL OF ASSISTANCE.—The Secretary may approve assistance under subparagraph (B) only if the Secretary determines that the combination of assistance provided—

"(i) is necessary to provide a fair return on the investment of the borrower; and

"(ii) is the least costly alternative for the Federal Government that is consistent with carrying out the purposes of this subsection.

"(5)(A) OFFER TO SELL TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(i) IN GENERAL.—If the Secretary determines after a reasonable period that an agreement will not be entered into with a borrower under paragraph (4), the Secretary shall require the borrower (except as provided in subparagraph (G)) to offer to sell the assisted housing and related facilities involved to any qualified nonprofit organization or public agency at a fair market value determined by 2 independent appraisers, one of whom shall be selected by the Secretary and one of whom shall be selected by the borrower. If the 2 appraisers fail to agree on the fair market value, the Secretary and the borrower shall jointly select a third appraiser, whose appraisal shall be binding on the Secretary and the borrower.

"(ii) PERIOD FOR WHICH REQUIREMENT APPLICABLE.—If, upon the expiration of 180 days after an offer is made to sell housing and related facilities under clause (i), no qualified nonprofit organization or public agency has made a bona fide offer to purchase, the Secretary may accept the offer to prepay, or may request refinancing in accordance with subsection (b)(3) of, the loan. This clause shall apply only when funds are available for purposes of carrying out a transfer under this paragraph.

"(B) QUALIFIED NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(i) LOCAL NONPROFIT ORGANIZATION OR PUBLIC AGENCY.—A local nonprofit organization or public agency may purchase housing and related facilities under this paragraph only if—

"(I) the organization or agency is determined by the Secretary to be capable of managing the housing and related facilities (either directly or through a contract) for the remaining useful life of the housing and related facilities; and

"(II) the organization or agency has entered into an agreement that obligates it (and successors in interest thereof) to maintain the housing and related facilities as affordable for very low-income families or persons and low income families or persons for the remaining useful life of the housing and related facilities.

"(ii) NATIONAL OR REGIONAL NONPROFIT ORGANIZATION.—If the Secretary determines that there is no local nonprofit organization or public agency qualified to purchase the housing and related facilities involved, the Secretary shall require the borrower to offer to sell the assisted housing and related facilities to an existing qualified national or regional nonprofit organization.

"(C) FINANCING OF SALE.—To facilitate the sale described in subparagraph (A), the Secretary shall—

"(i) to the extent provided in appropriation Acts, make an advance to the nonprofit organization or public agency whose offer to purchase is accepted under this paragraph to cover any direct costs (other than the purchase price) incurred by the organization or agency in purchasing and assuming responsibility for the housing and related facilities involved;

"(ii) approve the assumption, by the nonprofit organization or public agency involved, of the loan made or insured under section 514 or 515;

"(iii) to the extent provided in appropriation Acts, transfer any rental assistance payments that are received under section 521(a)(2)(A), or under section 8 of the United States Housing Act of 1937, with respect to the housing and related facilities involved; and

"(iv) to the extent provided in appropriation Acts, provide a loan under section 515(c)(3) to the nonprofit organization or public agency whose offer to purchase is accepted under this paragraph to enable the

organization or agency to purchase the housing and related facilities involved.

"(D) RENT LIMITATION AND ASSISTANCE.—The Secretary shall, to the extent provided in appropriation Acts, provide to each nonprofit organization or public agency purchasing housing and related facilities under this paragraph financial assistance (in the form of monthly payments or forgiveness of debt) in an amount necessary to ensure that the monthly rent payment made by each low income family or person residing in the housing does not exceed the maximum rent permitted under section 521(a)(2)(A).

"(E) RESTRICTION ON SUBSEQUENT TRANSFERS.—Except as provided in subparagraph (B)(ii), the Secretary may not approve the transfer of any housing and related facilities purchased under this paragraph during the remaining useful life of the housing and related facilities, unless the Secretary determines that—

"(i) the transfer will further the provision of housing and related facilities for low income families or persons; or

"(ii) there is no longer a need for such housing and related facilities by low income families or persons.

"(F) GENERAL RESTRICTION ON PREPAYMENTS AND REFINANCINGS.—Following the transfer of the maximum number of dwelling units set forth in subparagraph (H)(i) in any fiscal year or the maximum number of dwelling units for which budget authority is available in any fiscal year, the Secretary may not accept in such fiscal year any offer to prepay, or request refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 514 or 515 pursuant to a contract entered into before December 21, 1979, except in accordance with subparagraph (G). The limitation established in this subparagraph shall not apply to an offer to prepay, or request to refinance, if, following the date on which such offer or request is made (or following the date of the enactment of the Housing and Community Development Act of 1987, whichever occurs later) a 15-month period expires during which no budget authority is available to carry out this paragraph. For purposes of this subparagraph, the Secretary shall allocate budget authority under this paragraph in the order in which offers to prepay, or request to refinance, are made.

"(G) EXCEPTION.—This paragraph shall not apply to any offer to prepay, or any request to refinance in accordance with subsection (b)(3), any loan made or insured under section 514 or 515 pursuant to a contract entered into before December 21, 1979, if—

"(i) the borrower enters into an agreement with the Secretary that obligates the borrower (and successors in interest thereof)—

"(I) to utilize the assisted housing and related facilities for the purposes specified in section 514 or 515, as the case may be, for a period determined by the Secretary (but not less than the period described in paragraph (1)(B) calculated from the date on which the loan is made or insured); and

"(II) upon termination of the period described in paragraph (1)(B), to offer to sell the assisted housing and related facilities to a qualified nonprofit organization or public agency in accordance with this paragraph; or

"(ii) the Secretary determines that housing opportunities of minorities will not be materially affected as a result of the prepayment or refinancing, and that—

"(I) the borrower (and any successor in interest thereof) are obligated to ensure that tenants of the housing and related facilities financed with the loan will not be displaced due to a change in the use of the housing, or to an increase in rental or other charges, as a result of the prepayment or refinancing; or

"(II) there is an adequate supply of safe, decent, and affordable rental housing within the market area of the housing and related facilities and sufficient actions have been taken to ensure that the rental housing will be made available to each tenant upon displacement.

"(H) FUNDING.—

"(i) BUDGET LIMITATION.—Not more than 5,000 dwelling units may be transferred under this paragraph in any fiscal year, and the budget authority that may be provided under this paragraph for any fiscal year may not exceed the amounts required to carry out this paragraph with respect to such number.

"(ii) REIMBURSEMENT OF RURAL HOUSING INSURANCE FUND.—There are authorized to be appropriated to the Rural Housing Insurance Fund such sums as may be necessary to reimburse the Fund for financial assistance provided under this paragraph, paragraph (4), and section 517(j)(7).

"(I) DEFINITION.—For purposes of this paragraph, the term 'nonprofit organization' means any private organization—

"(i) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual; and

"(ii) that is approved by the Secretary as to financial responsibility.

"(J) REGULATIONS.—Notwithstanding section 534, the Secretary shall issue final regulations to carry out this paragraph not later than 60 days after the date of the enactment of the Housing and Community Development Act of 1987. The Secretary shall provide for the regulations to take effect not later than 45 days after the date on which the regulations are issued.".

SEC. 242. EQUITY RECAPTURE LOANS AND LOANS TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.

Section 515 of the Housing Act of 1949 is amended—

(1) by redesignating subsections (c) through (p) as subsections (d) through (q), respectively; and

(2) by inserting after subsection (b) the following:

"(c) With respect to a loan made or insured under subsection (a) or (b), the Secretary is authorized to—

"(1) make or insure an equity loan in the form of a supplemental loan for the purpose of equity takeout to the owner of housing financed with a loan made or insured under this section pursuant to a contract entered into before December 21, 1979, for the purpose of extending the affordability of the housing for low income families or persons and very-low income families or persons for not less than 20 years, except that such loan may not exceed 90 percent of the value of the equity in the project as determined by the Secretary;

"(2) transfer and reamortize an existing loan in connection with assistance provided under paragraph (1); and

"(3) make or insure a loan to enable a nonprofit organization or public agency to make a purchase described in section 502(c)(5).".

SEC. 243. USE OF RURAL HOUSING INSURANCE FUND.

Section 517(j) of the Housing Act of 1949 is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) to provide advances and assistance required to carry out paragraphs (4) and (5) of section 502(c).".

Subtitle D—Other Measures to Preserve Low Income Housing

SEC. 261. EARLY PREPAYMENT.

Section 250(a)(1) of the National Housing Act is amended by striking "or" and all that follows through "needs" the last place it appears.

SEC. 262. SECTION 8 ASSISTANCE.

(a) REQUIRED NOTICE.—Section 8(c) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(9) Not less than 1 year prior to terminating any contract under which assistance payments are received under this section (but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (o)), an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination. The Secretary shall review the owner's notice, shall consider whether there are additional actions that can be taken by the Secretary to avoid the termination, and shall ensure a proper adjustment of the contract rents for the project in conformity with the requirements of paragraph (2). The Secretary shall issue a written finding of the legality of the termination and the reasons for the termination, including the actions considered or taken to avoid the termination. For purposes of this paragraph, the term 'termination' means the expiration of the assistance contract or an owner's refusal to renew the assistance contract.".

(b) ADJUSTMENT OF ALLOWABLE RENT.—Section 8(c) of the United States Housing Act of 1937 (as amended by subsection (a) of this section) is further amended by adding at the end the following new paragraph:

"(10) If an owner provides notice of proposed termination under paragraph (9) and the contract rent is lower than the maximum monthly rent for units assisted under subsection (b)(1), the Secretary shall adjust the contract rent based on the maximum monthly rent for units assisted under subsection (b)(1) and the value of the lower income housing after rehabilitation.".

(c) LOAN MANAGEMENT AND PROPERTY DISPOSITION PROGRAMS.—Section 8 of the United States Housing Act of 1937 (as amended by section 149 of this Act) is further amended by adding at the end the following new subsection:

"(v)(1) Each contract entered into by the Secretary under this section for loan management assistance shall be for a term of 180 months.

"(2) The Secretary shall extend any expiring contract entered into under this section for loan management assistance or execute a new contract, if the owner agrees to continue providing housing for lower income families during the term of the contract.".

SEC. 263. SECTION 515 OPERATING RESERVE AND EQUITY CONTRIBUTION REQUIREMENTS.

Section 515 of the Housing Act of 1949 (as amended by section 242) is further amended

by adding at the end the following new subsection:

"(r) The Secretary—

"(1) may require that the initial operating reserve under this section may be in the form of an irrevocable letter of credit; and

"(2) may not require more than a 3 percent contribution to equity.".

TITLE III—RURAL HOUSING

SEC. 301. PROGRAM AUTHORIZATIONS.

(a) INSURANCE AND GUARANTEE AUTHORITY.—Section 513(a)(1) of the Housing Act of 1949 is amended to read as follows:

"(a)(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal years 1988 and 1989 in aggregate amounts not to exceed $1,775,395,000 and $1,794,925,000, respectively, as follows:

"(A) For insured or guaranteed loans under section 502 on behalf of borrowers receiving assistance under section 521(a)(1) or receiving guaranteed loans pursuant to section 304 of the Housing and Community Development Act of 1987, $1,104,000,000 for fiscal year 1988 and $1,116,144,000 for fiscal year 1989.

"(B) For loans under section 504, $11,335,000 for fiscal year 1988 and $11,460,000 for fiscal year 1989.

"(C) For insured loans under section 514, $11,485,000 for fiscal year 1988 and $11,612,000 for fiscal year 1989.

"(D) For insured loans under section 515, $647,000,000 for fiscal year 1988 and $654,117,000 for fiscal year 1989.

"(E) For loans under section 523(b)(1)(B), $1,000,000 for fiscal year 1988 and $1,011,000 for fiscal year 1989.

"(F) For site loans under section 524, $575,000 for fiscal year 1988 and $581,000 for fiscal year 1989.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 is amended to read as follows:

"(b) There are authorized to be appropriated for fiscal years 1988 and 1989, and to remain available until expended, the following amounts:

"(1) For grants under section 504, $13,113,000 for fiscal year 1988 and $13,362,000 for fiscal year 1989.

"(2) For purposes of section 509(c), $713,000 for fiscal year 1988 and $727,000 for fiscal year 1989.

"(3) Such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(4) For financial assistance under section 516, $9,979,000 for fiscal year 1988 and $10,169,000 for fiscal year 1989.

"(5) For grants under section 523(f), $8,392,000 for fiscal year 1988 and $8,551,000 for fiscal year 1989.

"(6) For grants under section 533, $20,078,000 for fiscal year 1988 and $20,460,000 for fiscal year 1989.".

(c) RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(c) of the Housing Act of 1949 is amended to read as follows:

"(c)(1) The Secretary, to the extent approved in appropriation Acts for fiscal years 1988 and 1989, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating $275,310,000 for fiscal year 1988 and $280,000,000 for fiscal year 1989.

"(2) Any authority approved in appropriation Acts for fiscal year 1988 or any succeeding fiscal year for rental assistance payment contracts under section 521(a)(2)(A) shall be used by the Secretary—

"(A) to renew rental assistance payment contracts that expire during such fiscal year;

"(B) to provide amounts required to continue rental assistance payments for the remaining period of an existing contract, in any case in which the original amount of rental assistance is used prior to the end of the term of the contract; and

"(C) to make additional rental assistance payment contracts for existing or newly constructed dwelling units.".

(d) SUPPLEMENTAL RENTAL ASSISTANCE CONTRACTS.—Section 513 of the Housing Act of 1949 is amended by adding at the end the following new subsection:

"(d) The Secretary, to the extent approved in appropriation Acts for fiscal years 1988 and 1989, may enter into 5-year supplemental rental assistance contracts under section 502(c)(5)(D) aggregating $26,000,000 for fiscal year 1988 and $27,534,000 for fiscal year 1989.".

(e) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking "March 15, 1988" and inserting "September 30, 1989".

(f) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 is amended by striking "March 15, 1988" and inserting "September 30, 1989".

(g) RURAL HOUSING VOUCHER DEMONSTRATION.—Section 513 of the Housing Act of 1949 (as amended by subsection (d) of this section) is further amended by adding at the end the following:

"(e)(1) To such extent or in such amounts as are approved in appropriation Acts, the Secretary shall carry out a demonstration rural housing voucher program during fiscal years 1988 and 1989. For such purpose, the Secretary shall enter into contracts using a payment standard in accordance with section 8(o) of the United States Housing Act of 1937 covering up to 7,500 dwelling units located in rural areas in not more than 5 States during each such fiscal year.

"(2) The Secretary may use the authority conferred by paragraph (1) in a State only if the State Farmers Home Administration Administrator certifies that—

"(A) such Administrator has completed an inventory of the State's housing supply, including housing suitable for rehabilitation, using currently available data; and

"(B) there is an adequate supply of decent, safe, and sanitary housing available for occupancy by voucher holders in that State.

"(3) In carrying out the voucher demonstration program under this subsection, the Secretary shall coordinate activities under this subsection with activities assisted under sections 515 and 533 of this title and under section 17 of the United States Housing Act of 1937.

"(4) Funding for the voucher demonstration program under this subsection shall be from amounts in the Rural Housing Insurance Fund authorized for loans under sections 502 and section 515 in proportion to the amounts authorized for such loans. Any reduction in the amounts available for such loans shall be made from the total amounts available for such loans in all States.".

SEC. 302. ELIGIBILITY REQUIREMENTS.

(a) RESIDENT ALIENS.—Section 501 of the Housing Act of 1949 is amended by adding at the end the following new subsection:

"(h)(1) The Secretary may not restrict the availability of assistance under this title for any alien for whom assistance may not be restricted by the Secretary of Housing and Urban Development under section 214 of the Housing and Community Development Act of 1980.

"(2) In carrying out any restriction established by the Secretary on the availability of assistance under this title for any alien, the Secretary shall follow procedures comparable to the procedures established in section 214 of the Housing and Community Development Act of 1980.".

(b) INCOME LEVELS.—

(1) Section 501(b)(4) of the Housing Act of 1949 is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the maximum income levels established for purposes of this title for such families and persons in the Virgin Islands shall not be less than the highest such levels established for purposes of this title for such families and persons in American Samoa, Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

(2) The amendment made by paragraph (1) shall be applicable to any determination of eligibility for assistance under title V of the Housing Act of 1949 made on or after the date of the enactment of this Act.

SEC. 303. ESCROWING TAXES AND INSURANCE.

Section 501(e) of the Housing Act of 1949 is amended to read as follows:

"(e) The Secretary shall establish procedures under which borrowers under this title are required to make periodic payments for the purpose of taxes, insurance, and other necessary expenses as the Secretary may deem appropriate. Notwithstanding any other provision of law, such payments shall not be considered public funds. The Secretary shall direct the disbursement of the funds at the appropriate time or times for the purposes for which the funds were escrowed. If the prepayments made by the borrower are not sufficient to pay the amount due, advances may be made by the Secretary to pay the costs in full, which advances shall be charged to the account of the borrower, bear interest, and be payable in a timely fashion as determined by the Secretary. The Secretary shall notify a borrower in writing when loan payments are delinquent.".

SEC. 304. RURAL HOUSING GUARANTEED LOAN DEMONSTRATION.

(a) ESTABLISHMENT OF DEMONSTRATION.—The Secretary of Agriculture (referred to in this section as the "Secretary") shall carry out a rural housing guaranteed loan demonstration program under which the Secretary shall, to the extent of amounts provided in appropriation Acts, provide guaranteed loans in accordance with section 502, 517(d), and the last sentence of section 521(a)(1)(A), of the Housing Act of 1949.

(b) AMOUNT AVAILABLE FOR DEMONSTRATION.—

(1) There shall be available for guaranteed loans under this section for any fiscal year in each State an amount equal to whichever of the following is lower:

(A) 10 percent of the total loan authority allocated under section 502 of the Housing Act of 1949 to the State for the fiscal year.

(B) The average, during the preceding 3 fiscal years, of the funds allocated to the

State under section 502 of the Housing Act of 1949 that have not been utilized.

(2) Any amount made available under this subsection that is not used before the last 60 days of a fiscal year shall become available for assistance for low income families or persons under section 502 of the Housing Act of 1949.

(c) ELIGIBILITY FOR LOANS.—Loans guaranteed pursuant to this section shall be made only to borrowers with moderate incomes that do not exceed the median income of the area, as determined by the Secretary, with adjustments for smaller and larger families.

(d) REPORTS TO CONGRESS.—The Secretary shall submit to the Congress—

(1) as soon as practicable after September 30, 1989, an interim report setting forth the findings and recommendations of the Secretary as a result of the demonstration; and

(2) as soon as practicable after September 30, 1991, a final report setting forth the findings and recommendations of the Secretary as a result of the demonstration.

(e) TERMINATION.—The Secretary may not provide any guaranteed loan under this section after September 30, 1991, except pursuant to a commitment entered into on or before such date.

SEC. 305. DEFINITION OF DOMESTIC FARM LABOR.

(a) INSURED LOAN PROGRAM.—Section 514(f)(3) of the Housing Act of 1949 is amended to read as follows:

"(3) the term 'domestic farm labor' means any person (and the family of such person) who receives a substantial portion of his or her income from primary production of agricultural or aquacultural commodities or the handling of such commodities in the unprocessed stage, without respect to the source of employment, except that—

"(A) such person shall be a citizen of the United States or a person legally admitted for permanent residence;

"(B) such term includes any person (and the family of such person) who is retired or disabled, but who was domestic farm labor at the time of retirement or becoming disabled; and

"(C) in applying this paragraph with respect to vacant units in farm labor housing, the Secretary shall make units available for occupancy in the following order of priority:

"(i) to active farm laborers (and their families);

"(ii) to retired or disabled farm laborers (and their families) who were active in the local farm labor market at the time of retiring or becoming disabled; and

"(iii) to other retired or disabled farm laborers (and their families).".

(b) GRANT PROGRAM.—Section 516(g) of the Housing Act of 1949 is amended—

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

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

(3) by adding at the end the following new paragraph:

"(4) the term 'domestic farm labor' has the meaning given such term in section 514(f)(3).".

SEC. 306. CONFORMANCE WITH LOW-INCOME HOUSING TAX CREDIT ELIGIBILITY REQUIREMENTS.

Section 515(p) of the Housing Act of 1949 (as so redesignated by section 242 of this Act) is amended by adding at the end the following:

"(4) In projects financed under this section, units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986 shall not be available for occupancy by persons or families other than persons or families with incomes not in excess of the qualifying income applicable to such units pursuant to subparagraph (A) or (B) of section 42(g)(1) of such Code, except when the Secretary determines that the continued vacancy of units that have been unoccupied for at least 6 months threatens the financial viability of the project.".

SEC. 307. LIMITATION OF FEES ON RURAL RENTAL HOUSING LOANS.

Section 515 of the Housing Act of 1949 (as amended by section 263 of this Act) is further amended by adding at the end the following new subsection:

"(s) No fee other than a late fee may be imposed by or for the Secretary or any other Federal agency on or with respect to a loan made or insured under this section.".

SEC. 308. RURAL AREA CLASSIFICATION.

(a) HOLD HARMLESS.—Section 520 of the Housing Act of 1949 is amended by striking "March 15, 1988" in the last sentence and inserting "September 30, 1989".

(b) ELIGIBILITY OF RURAL AREA PROXIMATE TO URBAN AREA.—Section 520 of the Housing Act of 1949 is amended in the first sentence by inserting before "part of or associated with" the following: "(except in the case of Pajaro, in the State of California)".

SEC. 309. PROCEDURES FOR REDUCTION OF INTEREST CREDITS.

Section 521(a)(1)(B) of the Housing Act of 1949 is amended by adding at the end the following new sentence: "In the case of assistance provided under this subparagraph with respect to a loan under section 502, the Secretary may not reduce, cancel, or refuse to renew the assistance due to an increase in the adjusted income of the borrower if the reduction, cancellation, or nonrenewal will cause the borrower to be unable to reasonably afford the resulting payments required under the loan.".

SEC. 310. RURAL HOUSING PRESERVATION GRANT PROGRAM.

Section 533(h) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary shall, not later than the expiration of the 30-day period following the date of the enactment of the Housing and Community Development Act of 1987 issue regulations to carry out the program of grants under subsection (a)(2).".

SEC. 311. RURAL RENTAL REHABILITATION DEMONSTRATION.

(a) ESTABLISHMENT OF DEMONSTRATION.—The Secretary of Housing and Urban Development (referred to in this section as the "Secretary") shall carry out a rural rental rehabilitation demonstration program in accordance with this section.

(b) AVAILABILITY OF AMOUNTS.—For purposes of the demonstration program, any rental rehabilitation grant amount provided to a State under section 17 of the United States Housing Act of 1937 that is unutilized from any prior fiscal year shall be available for use in areas eligible for assistance under title V of the Housing Act of 1949.

(c) REPORT TO CONGRESS.—The Secretary shall submit to the Congress as soon as practicable after September 30, 1989, a report setting forth the findings and recommendations of the Secretary as a result of the demonstration program. The report shall include an evaluation of the following:

(1) The effectiveness of the program in meeting the need for the rehabilitation of rental housing in rural areas.

(2) The extent of participation by the owners of rental properties in the program.

(3) The cost of the program.

(d) TERMINATION.—The authority provided in this section shall terminate after September 30, 1989.

SEC. 312. STUDY OF MORTGAGE CREDIT IN RURAL AREAS.

The Secretary of Housing and Urban Development shall conduct a study of the availability and use of funds (including mortgages and loans insured under title II of the National Housing Act, loans made or insured under title V of the Housing Act of 1949, and conventional mortgages and loans) for the purchase and improvement of residential real property in rural areas, particularly in communities that have populations of not more than 2,500 individuals. Not later than April 1, 1988, the Secretary shall submit to the Congress a detailed report setting forth the findings of the Secretary as a result of the study.

SEC. 313. DEBT SETTLEMENT AUTHORITY OF SECRETARY.

Section 510(c) of the Housing Act of 1949 is amended to read as follows:

"(c) compromise, adjust, reduce, or charge-off claims, and adjust, modify, subordinate, or release the terms of security instruments, leases, contracts, and agreements entered into or administered by the Secretary under this title, as circumstances may require, including the release of borrowers or others obligated on a debt from personal liability with or without payment of any consideration at the time of the compromise, adjustment, reduction, or charge-off of any claim;".

SEC. 314. MANUFACTURED HOUSING.

Section 502(e) of the Housing Act of 1949 is amended by adding at the end the following:

"(3) A loan that may be made or insured under this section with respect to a manufactured home on a permanent foundation, or a manufactured home on a permanent foundation and a lot, shall be repayable over the same period as would be applicable under section 203(b) of the National Housing Act.".

SEC. 315. LOAN PACKAGING BY NONPROFIT ORGANIZATIONS.

Section 501 of the Housing Act of 1949 (as amended by section 302 of this Act) is further amended by adding at the end the following new subsection:

"(i) For the purposes of this title, the term 'development cost' shall include the packaging of loan and grant applications and actions related thereto by public and private nonprofit organizations tax exempt under the Internal Revenue Code of 1986.".

SEC. 316. RURAL HOUSING TECHNICAL AMENDMENTS.

(a) DEFINITIONS.—Section 501(b)(3) of the Housing Act of 1949 is amended by striking "is a developmentally disabled individual as defined in section 102(7) of the Development Disabilities Services and Facilities Construction Act" and inserting the following: "has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7))".

(b) FARM LABOR HOUSING.—Section 514(f)(1) of the Housing Act of 1949 is amended by striking "and" at the end.

(c) HOUSING FOR ELDERLY FAMILIES.—Section 515(p)(1) of the Housing Act of 1949 (as

so redesignated by section 242 of this Act) is amended by striking "effective".

(d) LOANS TO LOW- AND MODERATE-INCOME FAMILIES.—Section 521(a) of the Housing Act of 1949 is amended—

(1) in paragraph (1)(A), by striking ", except" and all that follows through "charges"; and

(2) in paragraph (2)(A), by striking "; or" and inserting ", or".

(e) HOUSING FOR RURAL TRAINEES.—Section 522(a) of the Housing Act of 1949 is amended by striking the comma after "Health".

(f) CONDOMINIUM HOUSING.—

(1) Section 526(a) of the Housing Act of 1949 is amended by striking "and" the first place it appears.

(2) Section 526(c) of the Housing Act of 1949 is amended by striking "and" the first place it appears.

(g) HOUSING PRESERVATION GRANTS.—

(1) Section 533(e)(1)(B)(iii) of the Housing Act of 1949 is amended by inserting "to" before "refuse".

(2) Section 533(g) of the Housing Act of 1949 is amended by striking "persons of low income and very low-income" and inserting "low income families or persons and very low-income families or persons".

TITLE IV—MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET PROGRAMS

Subtitle A—FHA Mortgage Insurance Programs

SEC. 401. INSURANCE AUTHORITY FOR FHA.

(a) REPEALS.—Each of the following provisions of law is repealed:

(1) Section 217 of the National Housing Act.

(2) The fifth sentence of section 221(f) of the National Housing Act.

(3) Section 244(d), and the last sentence of section 244(h), of the National Housing Act.

(4) The last sentence of section 245(a) of the National Housing Act.

(5) The second sentence of section 809(f) of the National Housing Act.

(6) The second sentence of section 810(k) of the National Housing Act.

(7) The second sentence of section 1002(a) of the National Housing Act.

(8) The second sentence of section 1101(a) of the National Housing Act.

(b) AMENDMENT.—The first sentence of section 2(a) of the National Housing Act is amended by striking "and not later than March 15, 1988,".

(c) EXTENSION OF SECTION 235.—The last sentence of section 235(h)(1), section 235(m), and the last sentence of section 235(q)(1), of the National Housing Act are each amended by striking out "March 15, 1988" and inserting in lieu thereof "September 30, 1989".

(d) TERMINATION OF SECTION 235.—

(1) IN GENERAL.—Effective on October 1, 1989, the program under section 235 of the National Housing Act shall terminate.

(2) SAVINGS PROVISION.—The provisions of paragraph (1) shall not affect—

(A) any mortgage insurance commitment issued; or

(B) any assistance pursuant to a reservation of funds made;

under section 235 of the National Housing Act prior to October 1, 1989.

SEC. 402. AMOUNT TO BE INSURED UNDER NATIONAL HOUSING ACT.

Section 531 of the National Housing Act is amended—

(1) by inserting "(a)" after "SEC. 531."; and

(2) by adding at the end thereof the following:

"(b) Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this Act, and to the limitation in subsection (a), the Secretary shall enter into commitments to insure mortgages under this Act with an aggregate principal amount of $100,000,000,000 during fiscal year 1988, and $104,000,000,000 during fiscal year 1989.".

SEC. 403. LIMITATION ON FEDERAL HOUSING ADMINISTRATION INSURANCE PREMIUMS.

Section 203(c) of the National Housing Act is amended by adding at the end the following new sentence: "In the case of any mortgage secured by a 1- to 4-family dwelling, the total premium charge shall not exceed an amount equal to 3.8 percent of the original principal obligation of the mortgage if the Secretary requires (1) a single premium charge to cover the total premium obligation of the insurance of the mortgage; or (2) a periodic premium charge over less than the term of the mortgage.".

SEC. 404. INCREASE IN MAXIMUM MORTGAGE AMOUNT UNDER SINGLE FAMILY INSURANCE PROGRAM.

Section 203(b)(2)(A) of the National Housing Act is amended by striking "133⅓ per centum" and inserting "150 percent".

SEC. 405. CHANGE IN DEFINITION OF VETERAN.

The National Housing Act is amended—

(1) by inserting before the period at the end of the first undesignated paragraph of section 203(b)(3)(2) the following: ", except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 3103A(d) of title 38, United States Code"; and

(2) by inserting before the semicolon at the end of section 220(d)(3)(A)(i) the following: ", except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 3103A(d) of title 38, United States Code".

SEC. 406. LIMITATION ON USE OF SINGLE FAMILY MORTGAGE INSURANCE BY INVESTORS.

(a) IN GENERAL.—Section 203 of the National Housing Act is amended by inserting the following new subsection before subsection (h):

"(g)(1) The Secretary may insure a mortgage under this title that is secured by a 1- to 4-family dwelling, or approve a substitute mortgagor with respect to any such mortgage, only if the mortgagor is to occupy the dwelling as his or her principal residence or as a secondary residence, as determined by the Secretary.

"(2) The occupancy requirement established in paragraph (1) shall apply only if the mortgage involves a principal obligation that exceeds, as appropriate, 75 percent of—

"(A) the appraised value of the dwelling;

"(B) the estimate of the Secretary of the replacement cost of the property;

"(C) the sum of the estimates of the Secretary of the cost of repair and rehabilitation and the value of the property before repair and rehabilitation; or

"(D) the sum of the estimates of the Secretary of the cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property, and, in the case of a property refinanced under section 220(d)(3)(A), any existing indebtedness incurred in connection with improving, repairing, or rehabilitating the property.

"(3) The occupancy requirement established in paragraph (1) shall not apply to any mortgagor (or co-mortgagor, as appropriate) that is—

"(A) a public entity, as provided in section 214 or 247;

"(B) a private nonprofit or public entity, as provided in section 221(h) or 235(j);

"(C) an Indian tribe, as provided in section 248;

"(D) a serviceperson who is unable to meet such requirement because of his or her duty assignment, as provided in section 216 or subsection (b)(4) or (f) of section 222; or

"(E) a mortgagor or co-mortgagor under subsection (k).

"(4) For purposes of this subsection, the term 'substitute mortgagor' means a person who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assumes such liability and agrees to pay the mortgage debt.".

(b) CONFORMING AMENDMENTS.—

(1) Section 203(b)(2) of the National Housing Act is amended—

(A) in the first sentence, by striking "(whether" and all that follows through "purposes)"; and

(B) in the second sentence, by striking the following: "to be occupied as a principal residence of the owner".

(2) Section 203(b) of the National Housing Act is amended by striking paragraph (8).

(3) Section 203(h) of the National Housing Act is amended by striking "is the owner and occupant and".

(4) Section 203(i) of the National Housing Act is amended—

(A) by striking the first proviso; and

(B) by striking "further" the first place it appears.

(5) The first sentence of section 203(o)(2) of the National Housing Act is amended by striking "occupant".

(6) The first sentence of section 203(p)(2) of the National Housing Act is amended by striking "owner-occupant" and inserting "owner".

(7) The fourth sentence of section 214 of the National Housing Act is amended by striking the following: "shall be the owner and occupant of the property or".

(8) Section 216 of the National Housing Act is amended—

(A) by striking "that the mortgagor be the occupant" and inserting "with respect to the occupancy of the mortgagor"; and

(B) by striking "occupy the property" each place it appears and inserting "meet such requirement".

(9) Section 220(d)(3)(A) of the National Housing Act is amended—

(A) by inserting "and" at the end of clause (i);

(B) by striking clauses (ii) and (iii);

(C) in clause (iv), by striking the following: "(except as provided in clause (iii))"; and

(D) by redesignating clause (iv) as clause (ii).

(10) Section 221(d)(2) of the National Housing Act is amended—

(A) by striking the colon at the end of subparagraph (A)(iv) and all that follows through "*Provided further*, That" the first place it appears, and inserting ", except that";

(B) by striking "*Provided*, That (i)" and all that follows through "(1) in" and inserting the following: "*Provided*, That (i)(1) in";

(C) by striking the penultimate proviso; and

(D) in the last proviso, by striking the following: ", if the mortgagor is the owner and an occupant of the property such" and inserting "the".

(11) Section 221(d)(6)(ii) of the National Housing Act is amended by striking the following: "is an owner-occupant of the property and".

(12) The first sentence of section 221(h)(6) of the National Housing Act is amended by striking "and occupied".

(13) Section 221(h)(8) of the National Housing Act is amended by striking the following: "if one of the units is to be occupied by the owner".

(14) Subsections (b)(4) and (f) of section 222 of the National Housing Act are amended by inserting "as a principal residence" after "occupies the property" each place it appears.

(15) Section 223(a) of the National Housing Act is amended by inserting after "this Act," the first place it appears the following: "other than the limitation in section 203(g),".

(16) The first sentence of section 223(e) of the National Housing Act is amended by inserting after "title XI," the following: "other than the limitation in section 203(g),".

(17) Section 234(c) of the National Housing Act is amended by striking the fourth sentence.

(18) Section 235(i)(3)(A) of the National Housing Act is amended by striking the following: "one of the units of which is to be occupied by the owner and".

(19) Section 235(j)(6) of the National Housing Act is amended by striking the following: "if one of the units is to be occupied by the owner".

(c) REPEAL OF VACATION AND SEASONAL HOME INSURANCE PROGRAM.—Section 203 of the National Housing Act is amended by striking subsection (m).

(d) APPLICABILITY.—The amendments made by this section shall apply only with respect to—

(1) mortgages insured—

(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program (24 CFR 200.163), if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, referred to in the amendment made by subsection (a), if the original mortgagor was subject to such amendment.

(e) TRANSITION PROVISIONS.—Any mortgage insurance provided under title II of the National Housing Act, as it existed immediately before the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions specified in subsections (a) through (c), as such provisions existed immediately before such date.

SEC. 407. ACTIONS TO REDUCE LOSSES UNDER SINGLE FAMILY MORTGAGE INSURANCE PROGRAM.

(a) IN GENERAL.—

(1) AMENDMENT TO SECTION 203.—Section 203 of the National Housing Act is amended by adding at the end the following new subsection:

"(r) The Secretary shall take appropriate actions to reduce losses under the mortgage insurance program carried out under this section. Such actions shall include—

"(1) an annual review by the Secretary of the rate of early serious defaults and claims, in accordance with section 533;

"(2) requiring reviews of the credit standing of each person seeking to assume a mortgage insured under this section (A) during the 12-month period following the date on which the mortgage is endorsed for insurance, or (B) during the 24-month period following the date on which the mortgage is endorsed for insurance in the case of an investor originated mortgage; and

"(3) in any case where a mortgage is assumed after the period specified in paragraph (2), requiring that the original mortgagor be advised of the procedures by which he or she may be released from liability.

In any case where the homeowner does not request a release from liability, the purchaser and the homeowner shall have joint and several liability for any default for a period of 5 years following the date of the assumption. After the close of such 5-year period, only the purchaser shall be liable for any default on the mortgage unless the mortgage is in default at the time of the expiration of the 5-year period.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to mortgages endorsed for issuance on or after December 1, 1986.

(b) REPORTS BY MORTGAGEES.—Title V of the National Housing Act is amended by adding at the end thereof the following new section:

"DIRECTION TO THE SECRETARY TO REQUIRE MORTGAGEES WITH ABOVE NORMAL RATES OF EARLY, SERIOUS DEFAULTS AND CLAIMS TO SUBMIT REPORTS AND TAKE CORRECTIVE ACTION

"SEC. 533. (a) To reduce losses in connection with mortgage insurance programs under this Act, the Secretary shall review, at least once a year, the rate of early serious defaults and claims involving mortgagees approved under this Act. On the basis of this review, the Secretary shall notify each mortgagee which, as determined by the Secretary, had a rate of early serious defaults and claims during the preceding year which was higher than the normal rate for the geographic area or areas in which that mortgagee does business. In the notification, the Secretary shall require each mortgagee to submit a report, within a time determined by the Secretary, containing the mortgagee's (1) explanation for the above normal rate of early serious defaults and claims; (2) plan for corrective action, if applicable, both with regard to (A) mortgages in default; and (B) its mortgage-processing system in general; and (3) a timeframe within which this corrective action will be begun and completed. If the Secretary does not agree with this timeframe or plan, a mutually agreeable timeframe and plan will be determined.

"(b) Failure of the mortgagee to submit a report required under subsection (a) within the time determined by the Secretary or to commence or complete the plan for corrective action within the timeframe agreed upon by the Secretary may be cause for suspension of the mortgagee from participation in programs under this Act.".

SEC. 408. INSURANCE OF GRADUATED PAYMENT MORTGAGES.

(a) AUTHORITY TO INSURE REFINANCING.—Section 223(a)(7) of the National Housing Act is amended in the first proviso by inserting after "except that" the following: "(A) the principal amount of any such refinancing mortgage may equal the outstanding balance of an existing mortgage insured pursuant to section 245, if the amount of the monthly payment due under the refinancing mortgage is less than that due under the existing mortgage for the month in which the refinancing mortgage is executed; and (B)".

(b) TERMINATION OF AUTHORITY TO INSURE.—Section 245(b) of the National Housing Act is amended by adding at the end the following new sentence: "No loan or mortgage may be insured under this subsection after the date of the enactment of the Housing and Community Development Act of 1987, except pursuant to a commitment to insure entered into on or before such date.".

SEC. 409. REFINANCING MORTGAGE INSURANCE FOR HOSPITALS, NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.

(a) STATE CERTIFICATION REQUIREMENT.—Section 223(f)(4)(D) of the National Housing Act is amended to read as follows:

"(D) the applicable requirements for certificates, studies, and statements of section 232 (for the existing nursing home, intermediate care facility, board and care home, or any combination thereof, proposed to be refinanced) or of section 242 (for the existing hospital proposed to be refinanced) have been met.".

(b) REFINANCING INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.—Section 223(f) of the National Housing Act is amended—

(1) in paragraph (1), by inserting after "existing hospital" the following: "(or existing nursing home, existing intermediate care facility, existing board and care home, or any combination thereof)"; and

(2) in paragraph (4) (other than in subparagraph (D)), by inserting after "existing hospital" each place it appears the following: "(or existing nursing home, existing intermediate care facility, existing board and care home, or any combination thereof)".

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendment made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 410. MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.

(a) INSURANCE FOR PUBLIC NURSING HOMES.—Section 232(b)(1) of the National Housing Act is amended by inserting "public facility," before "proprietary".

(b) REQUIREMENT OF STATE APPROVAL.—Section 232(d)(4)(A) of the National Housing Act is amended by inserting at the end the following new sentences: "If no such State agency exists, or if the State agency exists but is not empowered to provide a certification that there is a need for the home or facility or combined home and facility as required in clause (i) of the first sentence, the Secretary shall not insure any mortgage under this section unless (i) the State in which the home or facility or combined home and facility is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (I) is prepared in accordance with the principles established by the American Institute of Certified Public Accountants; (II) assesses, on a marketwide basis, the impact of the proposed home or facility or combined home and facility on, and its relationship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery sys-

tems, and the reimbursement structure of the home, facility, or combined home and facility; (III) is addressed to and is acceptable to the Secretary in form and substance; and (IV) in the event the State does not prepare the study, is prepared by a financial consultant who is selected by the State or the applicant for mortgage insurance and is approved by the Secretary; and (ii) the State complies with the other provisions of this subparagraph that would otherwise be required to be met by a State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence. In the case of a small intermediate care facility for the mentally retarded or developmentally disabled, or a board and care home housing less than 10 individuals, the State program agency or agencies responsible for licensing, certifying, financing, or monitoring the facility or home may, in lieu of the requirements of clause (i) of the third sentence, provide the Secretary with written support identifying the need for the facility or home.".

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 411. REQUIREMENT OF STATE APPROVAL FOR MORTGAGE INSURANCE FOR HOSPITALS.

(a) IN GENERAL.—Section 242(d)(4) of the National Housing Act is amended by inserting at the end the following new sentences: "If no such State agency exists, or if the State agency exists but is not empowered to provide a certification that there is a need for the hospital as set forth in clause (A) of the first sentence, the Secretary shall not insure any mortgage under this section unless (A) the State in which the hospital is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (i) is prepared in accordance with the principles established by the American Institute of Certified Public Accountants; (ii) assesses, on a marketwide basis, the impact of the proposed hospital on, and its relationship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the hospital; (iii) is addressed to and is acceptable to the Secretary in form and substance; and (iv) in the event the State does not prepare the study, is prepared by a financial consultant selected by the State and approved by the Secretary; and (B) the State complies with the other provisions of this paragraph that would otherwise be required to be met by a State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence.".

(b) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendment made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 412. MORTGAGE INSURANCE FOR PUBLIC HOSPITALS.

(a) ELIMINATION OF ADDITIONAL COLLATERAL REQUIREMENTS FOR PUBLIC HOSPITALS.—Section 242(a) of the National Housing Act is amended by adding at the end the following: "Such assistance shall be provided regardless of the amount of public financial or other support a hospital may receive, and the Secretary shall neither require additional security or collateral to guarantee such support, nor impose more stringent eligibility or other requirements on publicly owned or supported hospitals.".

(b) CREDIT FOR EXISTING EQUIPMENT AND IMPROVEMENTS.—Section 242(d)(2) of the National Housing Act is amended by striking the matter preceding subparagraph (A) and inserting the following:

"(2) The mortgage shall involve a principal obligation in the amount requested by the mortgagor if such amount does not exceed 90 percent of the estimated replacement cost of the property or project including—".

(c) CONTINUED USE OF LETTERS OF CREDIT.—Section 242(d) of the National Housing Act is amended by adding at the end the following new paragraph:

"(6) To the extent that a private nonprofit or public facility mortgagor is required by the Secretary to provide cash equity in excess of the amount of the mortgage to complete the project, the mortgagor shall be entitled, at the option of the mortgagee, to fund the excess with a letter of credit. In such event, mortgage proceeds may be advanced to the mortgagor prior to any demand being made on the letter of credit.".

(d) IMMEDIATE PROCESSING OF APPLICATIONS FOR PUBLIC HOSPITALS.—Section 242(f) of the National Housing Act is amended by adding at the end the following: "The Secretary shall begin immediately to process applications of public facilities for mortgage insurance under this section in accordance with regulations, guidelines, and procedures applicable to facilities of private nonprofit corporations and associations.".

(e) REPORT ON INSURANCE UNDER SECTION 242.—The Comptroller General of the United States shall conduct a study of the long-term financial exposure of the Federal Government under the mortgage insurance program pursuant to section 242 of the National Housing Act. Not later than October 1, 1988, the Comptroller General of the United States shall transmit to the Congress a report setting forth the results of such study, including documentation of the long-term financial exposure determined in the course of such study and recommendations for such legislation as the Comptroller General deems appropriate.

SEC. 413. MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS AND INDIAN RESERVATIONS.

(a) APPLICABILITY OF MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS.—Section 247(c)(1) of the National Housing Act is amended by inserting before the period at the end the following: "(or, in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian home lands, such lower percentage as may be established for such succession under section 209 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 5))".

(b) MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS AS OBLIGATIONS OF GENERAL INSURANCE FUND.—Section 247 of the National Housing Act is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund established in section 519. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 with respect to mortgages insured pursuant to this section, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2) all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.".

(c) MORTGAGE INSURANCE ON INDIAN RESERVATIONS AS OBLIGATIONS OF GENERAL INSURANCE FUND.—Section 248 of the National Housing Act is amended—

(1) in paragraphs (3) and (5) of subsection (f), by striking "insurance fund" each place it appears and inserting "General Insurance Fund";

(2) by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively; and

(3) by inserting after subsection (e) the following new subsection:

"(f) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund established in section 519. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 with respect to mortgages insured pursuant to this section, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2) all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.".

SEC. 414. CO-INSURANCE PROGRAM.

(a) REPEALER.—Section 244 of the National Housing Act is amended by striking subsection (c).

(b) CO-INSURANCE AMENDMENTS.—Section 244 of the National Housing Act is amended—

(1) in subsection (h), by striking "coinsurance" each place it appears and inserting "co-insurance"; and

(2) by adding at the end the following new subsection:

"(i) Any mortgagee which enters into a contract of co-insurance under this section shall have the authority to assign its interest in any note or mortgage subject to a contract of co-insurance to a warehouse bank or other financial institution which provides interim funding for a loan co-insured under this section, and to retain the co-insurance risk of such note or mortgage, upon such terms and conditions as the Secretary shall prescribe.".

SEC. 415. INCREASE IN AUTHORITY TO INSURE ADJUSTABLE RATE SINGLE FAMILY MORTGAGES.

(a) IN GENERAL.—Section 251(c) of the National Housing Act is amended to read as follows:

"(c) The aggregate number of mortgages and loans insured under this section in any fiscal year may not exceed 30 percent of the

aggregate number of mortgages and loans insured by the Secretary under this title during the preceding fiscal year.".

(b) CONFORMING AMENDMENTS.—

(1) Section 245(c) of the National Housing Act is amended in the last sentence by striking ", section 251,".

(2) Section 252(g) of the National Housing Act is amended—

(A) by striking the first comma and inserting "and"; and

(B) by striking ", and section 251".

SEC. 416. PENALTIES FOR EQUITY SKIMMING.

(a) PURCHASE OF DWELLING SUBJECT TO LOAN IN DEFAULT.—Section 912 of the Housing and Urban Development Act of 1970 is amended—

(1) in paragraph (1), by inserting "(including condominiums and cooperatives)" after "dwellings";

(2) in paragraph (2), by inserting after "due" the following: ", regardless of whether the purchaser is obligated on the loan"; and

(3) in the matter following paragraph (3)—

(A) by striking "$5,000" and inserting "$250,000"; and

(B) by striking "three" and inserting "5".

(b) USE OF FUNDS DERIVED FROM PROPERTY SUBJECT TO LOAN IN DEFAULT.—Title II of the National Housing Act is amended by adding at the end the following new section:

"EQUITY SKIMMING PENALTY

"SEC. 254. Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of property that is security for a mortgage note that is insured, acquired, or held by the Secretary pursuant to section 203, 207, 213, 220, 221(d)(3), 221(d)(4), 223(f), 231, 232, 234, 236, 238(c), 241, 242, 244, 608, or 810, or title XI, or is made pursuant to section 202 of the Housing Act of 1959, willfully uses or authorizes the use of any part of the rents, assets, proceeds, income or other funds derived from property covered by such mortgage note during a period when the mortgage note is in default or the project is in a nonsurplus cash position as defined by the regulatory agreement covering such property, for any purpose other than to meet actual or necessary expenses that include expenses approved by the Secretary if such approval is required under the terms of the regulatory agreement, shall be fined not more than $250,000 or imprisoned not more than 5 years, or both.".

(c) CONFORMING AMENDMENTS.—Section 239 of the National Housing Act is amended—

(1) by striking "INSURED" in the section heading;

(2) by striking "(a)" after "SEC. 239."; and

(3) by striking subsection (b).

SEC. 417. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION.

(a) IN GENERAL.—Title II of the National Housing Act (as amended by section 416 of this Act) is further amended by adding at the end the following new section:

"DEMONSTRATION PROGRAM OF INSURANCE OF HOME EQUITY CONVERSION MORTGAGES FOR ELDERLY HOMEOWNERS

"SEC. 255. (a) PURPOSE.—The purpose of this section is to authorize the Secretary to carry out a demonstration program of mortgage insurance designed—

"(1) to meet the special needs of elderly homeowners by reducing the effect of the economic hardship caused by the increasing costs of meeting health, housing, and subsistence needs at a time of reduced income, through the insurance of home equity conversion mortgages to permit the conversion of a portion of accumulated home equity into liquid assets;

"(2) to encourage and increase the involvement of mortgagees and participants in the mortgage markets in the making and servicing of home equity conversion mortgages for elderly homeowners; and

"(3) to require the evaluation of data to determine—

"(A) the extent of the need and demand among elderly homeowners for insured and uninsured home equity conversion mortgages;

"(B) the types of home equity conversion mortgages that best serve the needs and interests of elderly homeowners, the Federal Government, and lenders; and

"(C) the appropriate scope and nature of participation by the Secretary in connection with home equity conversion mortgages for elderly homeowners.

"(b) DEFINITIONS.—For purposes of this section:

"(1) The terms 'elderly homeowner' and 'homeowner' mean any homeowner who is, or whose spouse is, at least 62 years of age or such higher age as the Secretary may prescribe.

"(2) The terms 'mortgage', 'mortgagee', 'mortgagor', and 'State' have the meanings given such terms in section 201.

"(3) The term 'home equity conversion mortgage' means a first mortgage which provides for future payments to the homeowner based on accumulated equity and which a housing creditor (as defined in section 803(2) of the Garn-St Germain Depository Institutions Act of 1982) is authorized to make (A) under any law of the United States (other than section 804 of such Act) or applicable agency regulations thereunder; (B) in accordance with section 804 of such Act, notwithstanding any State constitution, law, or regulation; or (C) under any State constitution, law, or regulation.

"(c) INSURANCE AUTHORITY.—The Secretary may, upon application by a mortgagee, insure any home equity conversion mortgage eligible for insurance under this section and, upon such terms and conditions as the Secretary may prescribe, make commitments for the insurance of such mortgages prior to the date of their execution or disbursement to the extent that the Secretary determines such mortgages—

"(1) have promise for improving the financial situation or otherwise meeting the special needs of elderly homeowners;

"(2) will include appropriate safeguards for mortgagors to offset the special risks of such mortgages; and

"(3) have a potential for acceptance in the mortgage market.

"(d) ELIGIBILITY REQUIREMENTS.—To be eligible for insurance under this section, a mortgage shall—

"(1) have been made to a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

"(2) have been executed by a mortgagor who—

"(A) qualifies as an elderly homeowner;

"(B) has received adequate counseling by a third party (other than the lender) as provided in subsection (f); and

"(C) meets any additional requirements prescribed by the Secretary;

"(3) be secured by a dwelling that is designed principally for a 1-family residence and is occupied by the mortgagor and that has a value not to exceed the maximum dollar amount established by the Secretary under section 203(b)(2) for a 1-family residence;

"(4) provide that prepayment, in whole or in part, may be made without penalty at any time during the period of the mortgage;

"(5) provide for a fixed or variable interest rate or future sharing between the mortgagor and the mortgagee of the appreciation in the value of the property, as agreed upon by the mortgagor and the mortgagee;

"(6) contain provisions for satisfaction of the obligation satisfactory to the Secretary;

"(7) provide that the homeowner shall not be liable for any difference between the net amount of the remaining indebtedness of the homeowner under the mortgage and the amount recovered by the mortgagee from—

"(A) the foreclosure sale; or

"(B) the insurance benefits paid pursuant to subsection (i)(1)(C); and

"(8) contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserve, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may prescribe.

"(e) DISCLOSURES BY MORTGAGEE.—The Secretary shall require each mortgagee of a mortgage insured under this section to make available to the homeowner—

"(1) at the time of the loan application, a written list of the names and addresses of third-party information sources who are approved by the Secretary as responsible and able to provide the information required by subsection (f);

"(2) at least 10 days prior to loan closing, a statement explaining the homeowner's rights, obligations, and remedies with respect to temporary absences from the home, late payments, and payment default by the lender, all conditions requiring satisfaction of the loan obligation, and any other information that the Secretary may require; and

"(3) on an annual basis (but not later than January 31 of each year), a statement summarizing the total principal amount paid to the homeowner under the loan secured by the mortgage, the total amount of deferred interest added to the principal, and the outstanding loan balance at the end of the preceding year.

"(f) INFORMATION SERVICES FOR MORTGAGORS.—The Secretary shall provide or cause to be provided by entities other than the lender the information required in subsection (d)(2)(B). Such information shall be discussed with the mortgagor and shall include—

"(1) options other than a home equity conversion mortgage that are available to the homeowner, including other housing, social service, health, and financial options;

"(2) other home equity conversion options that are or may become available to the homeowner, such as sale-leaseback financing, deferred payment loans, and property tax deferral;

"(3) the financial implications of entering into a home equity conversion mortgage;

"(4) a disciosure that a home equity conversion mortgage may have tax consequences, affect eligibility for assistance under Federal and State programs, and have an impact on the estate and heirs of the homeowner; and

"(5) any other information that the Secretary may require.

"(g) LIMITATION ON INSURANCE AUTHORITY.—No mortgage may be insured under this section after September 30, 1991, except pursuant to a commitment to insure issued on or before such date. The total number of

mortgages insured under this section may not exceed 2,500. In no case may the benefits of insurance under this section exceed the maximum dollar amount established under section 203(b)(2) for a 1-family residence.

"(h) ADMINISTRATIVE AUTHORITY.—The Secretary may—

"(1) enter into such contracts and agreements with Federal, State, and local agencies, public and private entities, and such other persons as the Secretary determines to be necessary or desirable to carry out the purposes of this section; and

"(2) make such investigations and studies of data, and publish and distribute such reports, as the Secretary determines to be appropriate.

"(i) PROTECTION OF HOMEOWNER AND LENDER.—

"(1) Notwithstanding any other provision of law, and in order to further the purposes of the demonstration program authorized in this section, the Secretary shall take any action necessary—

"(A) to provide any mortgagor under this section with funds to which the mortgagor is entitled under the insured mortgage or ancillary contracts but that the mortgagor has not received because of the default of the party responsible for payment;

"(B) to obtain repayment of disbursements provided under subparagraph (A) from any source; and

"(C) to provide any mortgagee under this section with funds not to exceed the limitations in subsection (g) to which the mortgagee is entitled under the terms of the insured mortgage or ancillary contracts authorized in this section.

"(2) Actions under paragraph (1) may include—

"(A) disbursing funds to the mortgagor or mortgagee from the General Insurance Fund;

"(B) accepting an assignment of the insured mortgage notwithstanding that the mortgagor is not in default under its terms, and calculating the amount and making the payment of the insurance claim on such assigned mortgage;

"(C) requiring a subordinate mortgage from the mortgagor at any time in order to secure repayments of any funds advanced or to be advanced to the mortgagor;

"(D) requiring a subrogation to the Secretary of the rights of any parties to the transaction against any defaulting parties; and

"(E) imposing premium charges.

"(j) SAFEGUARD TO PREVENT DISPLACEMENT OF HOMEOWNER.—The Secretary may not insure a home equity conversion mortgage under this section unless such mortgage provides that the homeowner's obligation to satisfy the loan obligation is deferred until the homeowner's death, the sale of the home, or the occurrence of other events specified in regulations of the Secretary. For purposes of this subsection, the term 'homeowner' includes the spouse of a homeowner.

"(k) REPORTS TO CONGRESS.—

"(1) The Secretary shall, not later than September 30, 1989, submit an interim report to Congress describing—

"(A) design and implementation of the demonstration;

"(B) number and types of reverse mortgages written to date;

"(C) profile of participant homeowner-borrowers, including incomes, home equity, and regional distribution; and

"(D) problems encountered in implementation, including impediments associated with State or Federal laws or regulations governing taxes, insurance, securities, public benefits, banking, and any other problems in implementation that the Secretary encounters.

"(2) Not later than March 30, 1992, the Secretary shall submit to Congress a preliminary evaluation of the program authorized in this section. Such evaluation shall include an updated report on the matters referred to in paragraph (1) and shall in addition—

"(A) describe the types of mortgages appropriate for inclusion in such program;

"(B) describe any changes in the insurance programs under this title, or in other Federal regulatory provisions, determined to be appropriate;

"(C) describe any risk created under such mortgages to mortgagors and mortgagees or the insurance programs under this title, and whether the risk is adequately covered by the premiums under the insurance programs;

"(D) evaluate whether such program has improved the financial situation or otherwise met the special needs of participating elderly homeowners;

"(E) evaluate whether such program has included appropriate safeguards for mortgagors to offset the special risks of such mortgages; and

"(F) evaluate whether home equity conversion mortgages have a potential for acceptance in the mortgage markets.

"(3) The preliminary evaluation shall incorporate comments and recommendations solicited by the Secretary from the Board of Governors of the Federal Reserve System, the Secretary of Health and Human Services, the Federal Council on Aging, Federal Home Loan Bank Board, the Comptroller of the Currency, and the National Credit Union Administration Board regarding any of the matters referred to in paragraph (1) or (2).

"(4) Following submission of the preliminary evaluation, the Secretary shall, on a biennial basis, submit to the Congress an updated report and evaluation covering the period since the most recent report under this subsection and shall include analysis of the repayment of the home equity conversion mortgages under this demonstration during such period.".

(b) REGULATIONS.—The Secretary of Housing and Urban Development shall—

(1) not later than 6 months after the date of enactment of this Act, consult with lenders, insurers, and organizations and individuals with expertise in home equity conversion in developing proposed regulations implementing section 254 of the National Housing Act; and

(2) not later than 9 months after the date of the enactment of this Act, issue proposed regulations implementing section 254 of the National Housing Act.

SEC. 418. ASSURANCE OF ADEQUATE PROCESSING OF APPLICATIONS FOR LOAN AND MORTGAGE INSURANCE.

Title V of the National Housing Act (as amended by section 407 of this Act) is amended by adding at the end the following new section:

"ASSURANCE OF ADEQUATE PROCESSING OF APPLICATIONS FOR LOAN AND MORTGAGE INSURANCE

"SEC. 534. In order to ensure the adequate processing of applications for insurance of loans and mortgages under this Act, the Secretary shall maintain not less than one office in each State to carry out the provisions of this Act.".

SEC. 419. PROHIBITION OF LENDER REQUIREMENTS DISCOURAGING LOANS WITH LOWER PRINCIPAL AMOUNTS.

(a) LOAN AMOUNT OF ORIGINAL LOANS.—Title V of the National Housing Act (as amended by sections 407 and 418 of this Act) is further amended by adding at the end the following new section:

"PROHIBITION OF REQUIREMENT OF MINIMUM PRINCIPAL LOAN AMOUNT

"SEC. 535. A mortgagee or lender may not require, as a condition of providing a loan insured under this Act or secured by a mortgage insured under this Act, that the principal amount of the loan exceed a minimum amount established by the mortgagee or lender.".

(b) LOAN AMOUNT OF REFINANCINGS.—Section 223(a)(7) of the National Housing Act (as amended by section 408 of this Act) is further amended by striking "; and (B)" and inserting the following: "; (B) a mortgagee may not require a minimum principal amount to be outstanding on the loan secured by the existing mortgage; and (C)".

(c) STUDY OF OTHER LENDING PRACTICES.—During the 6-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall conduct a study of the interest rates and discount points charged for mortgages and loans insured under the National Housing Act. The study shall be designed to identify any pattern or practice of charging higher interest rates or discount points for mortgages or loans with lower principal amounts than for mortgages or loans with the maximum principal amounts permitted for insurance under the National Housing Act. Not later than 3 months after the expiration of the 6-month period, the Secretary shall submit to the Congress a report setting forth the findings and recommendations of the Secretary.

SEC. 420. REPEAL OF REQUIREMENT TO PUBLISH PROTOTYPE HOUSING COSTS FOR 1- TO 4-FAMILY DWELLING UNITS.

The Housing and Community Development Act of 1977 is amended by striking section 904.

SEC. 421. DOUBLE DAMAGES REMEDY FOR UNAUTHORIZED USE OF MULTIFAMILY HOUSING PROJECT ASSETS AND INCOME.

(a) ACTION TO RECOVER ASSETS OR INCOME.—

(1) The Secretary of Housing and Urban Development (referred to in this section as the "Secretary") may request the Attorney General to bring an action in a United States district court to recover any assets or income used by any person in violation of (A) a regulatory agreement that applies to a multifamily project whose mortgage is insured or held by the Secretary under title II of the National Housing Act; or (B) any applicable regulation. For purposes of this section, a use of assets or income in violation of the regulatory agreement or any applicable regulation shall include any use for which the documentation in the books and accounts does not establish that the use was made for a reasonable operating expense or necessary repair of the project and has not been maintained in accordance with the requirements of the Secretary and in reasonable condition for proper audit.

(2) For purposes of a mortgage insured or held by the Secretary under title II of the National Housing Act, the term "any person" shall mean any person or entity which owns a project, as identified in the regulatory agreement, including but not

limited to any stockholder holding 25 percent or more interest of a corporation that owns the project; any beneficial owner under any business or trust; any officer, director, or partner of an entity owning the project; and any heir, assignee, successor in interest, or agent of any owner.

(b) INITIATION OF PROCEEDINGS AND TEMPORARY RELIEF.—The Attorney General, upon request of the Secretary, shall have the exclusive authority to authorize the initiation of proceedings under this section. Pending final resolution of any action under this section, the court may grant appropriate temporary or preliminary relief, including restraining orders, injunctions, and acceptance of satisfactory performance bonds, to protect the interests of the Secretary and to prevent use of assets or income in violation of the regulatory agreement and any applicable regulation and to prevent loss of value of the realty and personalty involved.

(c) AMOUNT RECOVERABLE.—In any judgment favorable to the United States entered under this section, the Attorney General may recover double the value of the assets and income of the project that the court determines to have been used in violation of the regulatory agreement or any applicable regulation, plus all costs relating to the action, including but not limited to reasonable attorney and auditing fees. Notwithstanding any other provision of law, the Secretary may apply the recovery, or any portion of the recovery, to the project or to the applicable insurance fund under the National Housing Act.

(d) TIME LIMITATION.—Notwithstanding any other statute of limitations, the Secretary may request the Attorney General to bring an action under this section at any time up to and including 6 years after the latest date that the Secretary discovers any use of project assets and income in violation of the regulatory agreement or any applicable regulation.

(e) CONTINUED AVAILABILITY OF OTHER REMEDIES.—The remedy provided by this section is in addition to any other remedies available to the Secretary or the United States.

SEC. 422. MISCELLANEOUS MORTGAGE INSURANCE PROVISIONS.

(a) MORTGAGE INSURANCE FOR CONDOMINIUMS.—Section 234(e)(3) of the National Housing Act is amended by inserting after "design;" the following: "except that each of the foregoing dollar amounts is increased to the amount established for a comparable unit in section 221(d)(3)(ii);".

(b) MORTGAGE INSURANCE FOR CERTAIN PROPERTIES WITHIN AN INDIAN RESERVATION.—Section 203(q)(1) of the National Housing Act is amended by striking "Secretary may" and inserting "Secretary shall".

SEC. 423. CALCULATION OF MAXIMUM MORTGAGE AMOUNT UNDER SINGLE FAMILY INSURANCE PROGRAM.

Section 203(b)(2) of the National Housing Act is amended by inserting after the first sentence the following: "For purposes of the preceding sentence, the term 'area' means a county, or a metropolitan statistical area as established by the Office of Management and Budget, whichever results in the higher dollar amount.".

SEC. 424. APPROVAL OF INDIVIDUAL RESIDENTIAL WATER PURIFICATION OR TREATMENT UNITS.

(a) IN GENERAL.—When the existing water supply does not meet the minimum property standards established by the Department of Housing and Urban Development and a permanent alternative acceptable water supply is not available, a continuous supply of water may be provided through the use of approved residential water treatment equipment or a water purification unit that provides bacterially and chemically safe drinking water.

(b) APPROVAL PROCESS.—A performance-based approval of the equipment or unit and the maintenance, monitoring, and replacement plan for such equipment or unit shall be certified by field offices of the Department of Housing and Urban Development based upon general standards recognized by the Department as modified for local or regional conditions. As a part of such approved plan, a separate monthly escrow account may be required to be established through the lender to cover the cost of the approved yearly maintenance and monitoring schedule and projected replacement of the equipment or unit.

SEC. 425. REGULATION OF RENTS IN INSURED PROJECTS.

After December 1, 1987, the Secretary of Housing and Urban Development shall control rents and charges as they were controlled prior to April 19, 1983, for any multifamily housing project insured under the National Housing Act if—

(1) during the period of April 19, 1983, through December 1, 1987, the project owner and the Secretary have not executed, and the project owner has not filed a written request with the Secretary to enter into, an amendment to the regulatory agreement pursuant to regulations published by the Secretary on April 19, 1983, or June 4, 1986, electing to deregulate rents or utilize an alternative formula for determining the maximum allowable rents pursuant to regulations published by the Secretary on April 19, 1983, or June 4, 1986; and

(2)(A) the project was, as of December 1, 1987, receiving a housing assistance payment under a contract pursuant to section 8 of the United States Housing Act of 1937 (other than under the existing housing certificate program of section 8(b)(1) of such Act); or

(B) not less than 50 percent of the units in the project are occupied by lower income families (as defined in section 3(a)(2) of the United States Housing Act of 1937).

SEC. 426. MORTGAGE LIMITS FOR MULTIFAMILY PROJECTS.

(a) SECTION 207 LIMITS.—Section 207(c)(3) of the National Housing Act is amended—

(1) by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" and inserting in lieu thereof "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800", respectively; and

(2) by striking out "$22,500", "$25,200", "$30,900", "$38,700", and "$43,758" and inserting in lieu thereof "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885", respectively.

(b) SECTION 213 LIMITS.—Section 213(b)(2) of the National Housing Act is amended—

(1) by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" and inserting in lieu thereof "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800", respectively; and

(2) by striking out "$22,500", "$25,200", "$30,900", "$38,700", and "$43,758" and inserting in lieu thereof "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885", respectively.

(c) SECTION 220 LIMITS.—Section 220(d)(3)(B)(iii) of the National Housing Act is amended—

(1) by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" and inserting in lieu thereof "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800", respectively; and

(2) by striking out "$22,500", "$25,200", "$30,900", "$38,700", and "$43,758" and inserting in lieu thereof "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885", respectively.

(d) SECTION 221(d)(3) LIMITS.—Section 221(d)(3)(ii) of the National Housing Act is amended by striking out "$21,563"; "$24,862"; "$29,984"; "$38,379"; "$42,756"; "$22,692"; "$26,012"; "$31,631"; "$40,919"; and "$44,917" and inserting in lieu thereof "$28,032"; "$32,321"; "$38,979"; "$49,893"; "$55,583"; "$29,500"; "$33,816"; "$41,120"; "$53,195"; and "$58,392", respectively.

(e) SECTION 221(d)(4) LIMITS.—Section 221(d)(4)(ii) of the National Housing Act of 1934 is amended by striking out "$19,406"; "$22,028"; "$26,625"; "$33,420"; "$37,870"; "$20,962"; "$24,030"; "$29,220"; "$37,800"; and "$41,494" and inserting in lieu thereof "$25,228"; "$28,636"; "$34,613"; "$43,446"; "$49,231"; "$27,251"; "$31,239"; "$37,986"; "$49,140"; and "$53,942", respectively.

(f) SECTION 231 LIMITS.—Section 231(c)(2) of the National Housing Act is amended—

(1) by striking out "$18,450", "$20,625", "$24,630", "$29,640", and "$34,846" and inserting in lieu thereof "$23,985", "$26,813", "$32,019", "$38,532", and "$45,300", respectively; and

(2) by striking out "$20,962", "$24,030", "$29,220", "$37,800", and "$41,494" and inserting in lieu thereof "$27,251", "$31,239", "$37,986", "$49,140", and "$53,942", respectively.

(g) SECTION 234 LIMITS.—Section 234(e)(3) of the National Housing Act is amended—

(1) by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" and inserting in lieu thereof "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800", respectively; and

(2) by striking out "$22,500", "$25,200", "$30,900", "$38,700", and "$43,758" and inserting in lieu thereof "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885", respectively.

(h) LIMITS FOR MULTIFAMILY PROJECTS IN HIGH-COST AREAS.—Section 207(c)(3), the second proviso of section 213(b)(2), the first proviso of section 220(d)(3)(B)(iii), section 221(d)(3)(ii), section 221(d)(4)(ii), section 231(c)(2), and section 234(e)(3) of the National Housing Act are each amended by striking "not to exceed 75 per centum" and all that follows through "involved) in such an area" and inserting the following: "not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 305 of this Act (as such section existed immediately before November 30, 1983) is involved".

SEC. 427. OPERATING LOSS LOAN INSURANCE.

Section 223(d) of the National Housing Act is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking the first and second sentences and inserting the following:

"Notwithstanding any other provision of this Act, the Secretary is authorized to insure loans made to cover the operating

losses of certain projects that have existing project mortgages insured by the Secretary. Insurance under this subsection shall be in the Secretary's discretion and upon such terms and conditions as the Secretary may prescribe, and shall be provided in accordance with the provisions of this subsection. For purposes of this subsection, the term 'operating loss' means the amount by which the sum of the taxes, interest on the mortgage debt, mortgage insurance premiums, hazard insurance premiums, and the expense of maintenance and operation of the project covered by the mortgage, exceeds the income of the project.

"(2) To be eligible for insurance pursuant to this paragraph—

"(A) the existing project mortgage (i) shall have been insured by the Secretary at any time before or after the date of enactment of the Housing and Community Development Act of 1987; and (ii) shall cover any property, other than a property upon which there is located a 1- to 4-family dwelling;

"(B) the operating loss shall have occurred during the first 24 months after the date of completion of the project, as determined by the Secretary; and

"(C) the loan shall be in an amount not exceeding the operating loss.

"(3) To be eligible for insurance pursuant to this paragraph—

"(A) the existing project mortgage (i) shall have been insured by the Secretary at any time before or after the date of enactment of the Housing and Community Development Act of 1987; (ii) shall cover any property, other than a property upon which there is located a 1- to 4-family dwelling; and (iii) shall not cover a subsidized project, as defined by the Secretary;

"(B) the loan shall be in an amount not exceeding 80 percent of the unreimbursed cash contributions made on or after March 18, 1987, by the project owner for the use of the project, during any period of consecutive months (not exceeding 24 months) in the first 10 years after the date of completion of the project, as determined by the Secretary, except that in no event may the amount of the loan exceed the operating loss during such period;

"(C) the loan shall be made within 10 years after the end of the period of consecutive months referred to in the preceding subparagraph; and

"(D) the project shall meet all applicable underwriting and other requirements of the Secretary at the time the loan is to be made.

"(4) Any loan insured pursuant to this subsection shall (A) bear interest at such rate as may be agreed upon by the mortgagor and mortgagee; (B) be secured in such manner as the Secretary shall require; (C) be limited to a term not exceeding the unexpired term of the original mortgage; and (D) be insured under the same section as the original mortgage. The Secretary may provide insurance pursuant to paragraph (2) or (3), or pursuant to both such paragraphs, in connection with an existing project mortgage, except that the Secretary may not provide insurance pursuant to both such paragraphs in connection with the same period of months referred to in paragraphs (2)(B) and (3)(B)." ; and

(3) by inserting "(5)" before "A loan" at the beginning of the undesignated paragraph at the end.

SEC. 428. INTEREST CHARGES ON TEMPORARY MORTGAGE ASSISTANCE PAYMENTS AND ASSIGNMENT OR OTHER ASSISTANCE.

Section 230(a)(5) of the National Housing Act is amended by striking the third sentence and inserting the following: "The interest rate on payments made under this subsection shall be the rate established under section 1803(c) of title 38, United States Code. The interest rate to be charged shall be determined when the Secretary approves assistance under this subsection.".

SEC. 429. MORTGAGE INSURANCE TECHNICAL AMENDMENTS.

(a) ADMINISTRATIVE PROVISIONS.—The second sentence of section 1 of the National Housing Act is amended by striking the last comma.

(b) APPLICABLITY.—Section 9 of the National Housing Act is amended by inserting the following section heading:

"APPLICABILITY".

(c) LOAN INSURANCE PROGRAMS.—Sections 203(k)(3)(B) and 241(b)(3) of the National Housing Act are amended—

(1) by striking "mortgagor" each place it appears and inserting "borrower"; and

(2) by striking "mortgagee" each place it appears and inserting "financial institution".

(d) MISCELLANEOUS HOUSING INSURANCE.—

(1) Section 223(a)(7) of the National Housing Act is amended—

(A) in the first proviso, by striking "a rate not in excess of the maximum rate prescribed under the applicable section or title of this Act" and inserting the following: "such rate as may be agreed upon by the mortgagor and the mortgagee";

(B) in the second proviso, by striking "maturity, a principal obligation, and an interest rate" and inserting the following: "maturity and a principal obligation"; and

(C) by inserting before the semicolon at the end the following: ", and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee".

(2) Section 223(d)(1) of the National Housing Act is amended by striking "bear interest (exclusive of premium charges for insurance) at not to exceed the per centum per annum currently permitted for mortgages insured under the section under which it is to be insured" and inserting the following: "bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee".

(e) INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.—

(1) Section 232(b) of the National Housing Act is amended—

(A) by indenting as a separate paragraph (in the same manner as paragraph (1)) "(3) a nursing" and all that follows through "day; and";

(B) in such new paragraph (3)—

(i) by inserting "the term" after the paragraph designation; and

(ii) by striking "and" at the end;

(C) by redesignating the second paragraph (3) as paragraph (4); and

(D) by redesignating paragraph (4) as paragraph (5).

(2) Section 232(i)(2)(B) of the National Housing Act is amended to read as follows:

"(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;".

(f) MULTIFAMILY ASSISTANCE.—Section 236 of such Act is amended by striking out "(h)" in the last sentence of subsection (i)(1) and inserting in lieu thereof "(f)(4)".

(g) CO-INSURANCE.—

(1) Section 244(g) of the National Housing Act is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively.

(2) Section 244(h) of the National Housing Act is amended by striking "coinsurance" each place it appears and inserting "co-insurance".

(h) INSURANCE ON HAWAIIAN HOME LANDS.—Section 247(a)(2) of the National Housing Act is amended by striking "Mortgagor" and inserting "mortgagor".

(i) INSURANCE ON INDIAN RESERVATIONS.—Section 248 of the National Housing Act is amended—

(1) in subsection (a)(1), by striking "lands" and inserting "land";

(2) in subsection (a)(2), by striking "lands"; and

(3) in subsection (d), by striking "tribal or trust land" and inserting "trust or otherwise restricted land".

(j) SHARED APPRECIATION MORTGAGES.—Section 253 of the National Housing Act is amended—

(1) in subsection (b), by striking the fourth sentence and inserting the following: "For purposes of this section, the term 'net appreciated value' means the amount by which the sales price of the property (less the mortgagor's selling costs) exceeds the actual project cost after completion, as approved by the Secretary.";

(2) in the first sentence of subsection (c), by striking "204" and inserting "207"; and

(3) in subsection (c), by striking the last sentence and inserting the following: "The term 'original principal face amount of the mortgage' as used in section 207 shall not include the mortgagee's share of net appreciated value.".

(k) DEFENSE HOUSING FOR IMPACTED AREAS.—The first sentence of section 810(h) of the National Housing Act is amended—

(1) by striking "(exclusive of premium charges for insurance) at not to exceed the rate applicable to mortgages insured under section 207" and inserting the following: "at such rate as may be agreed upon by the mortgagor and the mortgagee"; and

(2) by striking "not to exceed the rate applicable to mortgages insured under section 203" and inserting the following: "such rate as may be agreed upon by the mortgagor and the mortgagee".

SEC. 430. RELEASE OF POOL FUNDS.

(a) SECTION 236.—Section 236 of the National Housing Act is amended by adding at the end thereof the following:

"(r) The Secretary shall, not later than 45 days after receipt of an application by the mortgagee, provide interest reduction and rental assistance payments for the benefit of projects assisted under this section whose mortgages were made by State or local housing finance agencies or State or local government agencies for a term equal to the remaining mortgage term to maturity on projects assisted under this section to the extent of—

"(1) unexpended balances of amounts of authority as set forth in certain letter agreements between the Department of Housing and Urban Development and such State or local housing finance agencies or State or local government agencies, and

"(2) existing allocation under section 236 contracts on projects whose mortgages were made by State or local housing finance agencies or State or local government agencies which are not being funded, to the extent of such excess allocation, for any purposes permitted under the provisions of this section, including without limitation rent supplement and rental assistance payment unit increases and mortgage increases for any eligible purpose under this section,

including without limitation operating deficit loans.

An application shall be eligible for assistance under the previous sentence only if the mortgagee submits the application within 548 days after the effective date of this subsection, along with a certification of the mortgagee that amounts hereunder are to be utilized only for the purpose of either (A) reducing rents or rent increases to tenants, or (B) making repairs or otherwise increasing the economic viability of a related project. Unexpended balances referred to in the first sentence of this subsection which remain after disposition of all such applications is favorably concluded shall be rescinded. The calculation of the amount of assistance to be provided under an interest reduction contract pursuant to this subsection shall be made on the basis of an assumed mortgage term equal to the lesser of a 40-year amortization period or the term of that part of the mortgage which relates to the additional assistance provided under this subsection, even though the additional assistance may be provided for a shorter period. The authority conferred by this subsection to provide interest reduction and rental assistance payments shall be available only to the extent approved in appropriation Acts.".

(b) RENT SUPPLEMENT PROGRAM.—Section 101 of the Housing and Urban Development Act of 1965 is amended by adding at the end thereof the following:

"(m) The Secretary shall, not later than 45 days after receipt of an application by the mortgagee, provide interest reduction and rental assistance payments for the benefit of projects assisted under this section whose mortgages were made by State or local housing finance agencies or State or local government agencies for a term equal to the remaining mortgage term to maturity on projects assisted under this section to the extent of—

"(1) unexpended balances of amounts of authority as set forth in certain letter agreements between the Department of Housing and Urban Development and such State or local housing finance agencies or State or local government agencies, and

"(2) existing allocation under section 236 contracts on projects whose mortgages were made by State or local housing finance agencies or State or local government agencies which are not being funded, to the extent of such excess allocation, for any purposes permitted under the provisions of this section.

An application shall be eligible for assistance under the previous sentence only if the mortgagee submits the application within 548 days after the effective date of this subsection, along with a certification of the mortgagee that amounts are to be utilized hereunder for the purpose of either (A) reducing rents or rent increases to tenants, or (B) making repairs or otherwise increasing the economic viability of a related project. Unexpended balances referred to in the first sentence of this subsection which remain after disposition of all such applications is favorably concluded shall be rescinded. The authority conferred by this subsection to provide interest reduction and rental assistance payments shall be available only to the extent approved in appropriation Acts.".

Subtitle B—Secondary Mortgage Market Programs

SEC. 441. LIMITATIONS ON CERTAIN SECONDARY MORTGAGE MARKET FEES.

(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—Section 304 of the Federal National Mortgage Association Charter Act is amended by adding at the end the following new subsection:

"(f) Except for fees paid pursuant to section 309(g), no fee or charge may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to the purchase, acquisition, sale, pledge, issuance, guarantee, or redemption of any mortgage, asset, obligation, trust certificate of beneficial interest, or other security by the corporation. No provision of this subsection shall affect the purchase of any obligation by the Secretary of the Treasury pursuant to subsection (c).".

(b) FEDERAL HOME LOAN MORTGAGE CORPORATION.—Section 306 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end the following new subsection:

"(i) Except for fees paid pursuant to section 303(c) or 306(c), no fee or charge may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to the purchase, acquisition, sale, pledge, issuance, guarantee, or redemption of any mortgage, asset, obligation, or other security by the Corporation. No provision of this subsection shall affect the purchase of any obligation by any Federal home loan bank pursuant to section 303(a).".

SEC. 442. FNMA CUMULATIVE VOTING.

Section 303(a) of the Federal National Mortgage Association Charter Act is amended by inserting after the first sentence the following new sentence: "The corporation may eliminate such rights of cumulative voting by a resolution adopted by its board of directors and approved by the holders of a majority of the shares of common stock voting in person or by proxy at the annual meeting, or other special meeting, at which such resolution is considered.".

SEC. 443. PERMANENT AUTHORITY TO PURCHASE SECOND MORTGAGES ON SINGLE-FAMILY PROPERTIES.

(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—Section 302(b)(5)(A)(i) of the Federal National Mortgage Association Charter Act is amended by striking "through March 15, 1988,".

(b) FEDERAL HOME LOAN MORTGAGE CORPORATION.—Section 305(a)(4)(A)(i) of the Federal Home Loan Mortgage Corporation Act is amended by striking "through March 15, 1988,".

SEC. 444. PERIOD FOR APPROVAL OF ACTIONS OF FNMA.

Section 309(i) of the Federal National Mortgage Association Charter Act is amended in the second sentence by inserting before the period at the end the following: ", but such 45-day period may not be extended for any other reason or for any period in addition to or other than such 15-day period".

SEC. 445. PROHIBITION OF LIMITATION ON FHLMC MORTGAGE OPERATIONS.

Section 305 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end the following new subsection:

"(c) The Board of Directors may not impose any annual limitation on the maximum aggregate principal amount of mortgages purchased by the Corporation.".

SEC. 446. LIMITATION ON GNMA GUARANTEES OF MORTGAGE-BACKED SECURITIES.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act is amended to read as follows:

"(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $150,000,000,000 for fiscal year 1988, and $156,000,000,000 for fiscal year 1989.".

TITLE V—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

Subtitle A—Community and Neighborhood Development and Preservation

SEC. 501. COMMUNITY DEVELOPMENT AUTHORIZATIONS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANTS.—The second sentence of section 103 of the Housing and Community Development Act of 1974 is amended to read as follows: "There are authorized to be appropriated for purposes of assistance under sections 106 and 107 $3,000,000,000 for fiscal year 1988, and $3,000,000,000 for fiscal year 1989.".

(b) DISCRETIONARY FUND.—

(1) The first sentence of section 107(a) of the Housing and Community Development Act of 1974 is amended to read as follows: "Of the total amount provided in appropriation Acts under section 103 for fiscal years 1988 and 1989, $60,000,000 may be set aside in each year in a special discretionary fund for grants under subsection (b).".

(2) Section 107 of the Housing and Community Development Act of 1974 is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(B) by inserting after subsection (b) the following new subsection:

"(c) Of the amount set aside for use under subsection (b) in any fiscal year, the Secretary shall, to the extent approved in appropriation Acts, make available not less than $3,000,000 in the form of grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community and economic development, community planning, or community management.".

(c) URBAN DEVELOPMENT ACTION GRANTS.—Section 119(a) of the Housing and Community Development Act of 1974 is amended by striking the second and last sentences and inserting the following new sentences: "There are authorized to be appropriated to carry out this section $225,000,000 for fiscal year 1988, and $225,000,000 for fiscal year 1989. Any amount appropriated under this subsection shall remain available until expended.".

SEC. 502. TARGETING OF BENEFITS TO PERSONS OF LOW AND MODERATE INCOME.

(a) PRIMARY OBJECTIVE.—Section 101(c) of the Housing and Community Development Act of 1974 is amended in the second sentence by striking "51 percent" and inserting "60 percent".

(b) SPECIFIC OBJECTIVES.—Section 101(c)(6) of the Housing and Community Development Act of 1974 is amended by

striking "to attract persons of higher income".

(c) CERTIFICATION.—Section 104(b)(3) of the Housing and Community Development Act of 1974 is amended by striking "51 percent" and inserting "60 percent".

SEC. 503. CITY AND COUNTY CLASSIFICATIONS.

(a) METROPOLITAN CITY.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended—

(1) in the second sentence, by striking "March 15, 1988" and inserting "September 30, 1989";

(2) by striking out the third sentence and inserting in lieu thereof the following: "Any unit of general local government that becomes eligible to be classified as a metropolitan city, and was not classified as a metropolitan city in the immediately preceding fiscal year, may, upon submission of written notification to the Secretary, defer its classification as a metropolitan city for all purposes under this title, if it elects to have its population included in an urban county under subsection (d). Notwithstanding the second sentence of this paragraph, a city may elect not to retain its classification as a metropolitan city for fiscal year 1988 or 1989."; and

(3) by adding at the end thereof the following new sentence: "Any city classified as a metropolitan city pursuant to the first or second sentence of this paragraph, and that no longer qualifies as a metropolitan city under such first or second sentence in a fiscal year beginning after fiscal year 1989, shall retain its classification as a metropolitan city for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year (A) the amount of the grant to such city shall be 50 percent of the amount calculated under section 106(b); and (B) the remaining 50 percent shall be added to the amount allocated under section 106(d) to the State in which the city is located and the city shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 106(d) as increased by this sentence.".

(b) URBAN COUNTY.—Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(6)(A) The term 'urban county' means any county within a metropolitan area which—

"(i) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government, and

"(ii) either—

"(I) has a population of 200,000 or more (excluding the population of metropolitan cities therein) and has a combined population of 100,000 or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government (and in the case of counties having a combined population of less than 200,000, the areas and units of general local government must include the areas and units of general local government which in the aggregate have the preponderance of the persons of low and moderate income who reside in the county) (a) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded, or (b) with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities, or

"(II) has a population in excess of 100,000, a population density of at least 5,000 persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

"(B) In order to permit an orderly transition of each county losing its classification as an urban county by reason of a decrease in population, any county classified as or deemed to be an urban county under this paragraph for purposes of receiving assistance under any section of this title for fiscal year 1983 or subsequent years shall retain such qualification for purposes of receiving such assistance through September 30, 1989, or for such longer period covered by a cooperation agreement entered into during fiscal year 1984, except that the provisions of this subparagraph shall not apply with respect to any county losing its classification as an urban county by reason of the election of any unit of general local government included in such county to have its population excluded under clause (ii)(I)(a) of subparagraph (A) or to not renew a cooperation agreement under clause (ii)(I)(b) of such subparagraph.

"(C) Notwithstanding the combined population amount set forth in clause (ii) of subparagraph (A), a county shall also qualify as an urban county for purposes of assistance under section 106 if such county—

"(i) complies with all other requirements set forth in the first sentence;

"(ii) has, according to the most recent available decennial census data, a combined population between 190,000 and 199,999, inclusive (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county;

"(iii) had a population growth rate of not less than 15 percent during the most recent 10-year period measured by applicable censuses; and

"(iv) has submitted data satisfactory to the Secretary that it has a combined population of not less than 200,000 (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county.

"(D) Such term also includes a county that—

"(i) has a combined population in excess of 175,000, has more than 50 percent of the housing units of the area unsewered, and has an aquifer that was designated before March 1, 1987, a sole source aquifer by the Environmental Protection Agency;

"(ii) has taken steps, which include at least one public referendum, to consolidate substantial public services with an adjoining metropolitan city, and in the opinion of the Secretary, has consolidated these services with the city in an effort that is expected to result in the unification of the two governments within 6 years of the date of enactment of the Housing and Community Development Act of 1987; or

"(iii) had a population between 180,000 and 200,000 on October 1, 1987, was eligible for assistance under section 119 of the Housing and Community Development Act of 1974 in fiscal year 1986, and does not contain any metropolitan cities.

"(E) Any county classified as an urban county pursuant to subparagraph (A), (B), or (C) of this paragraph, and that no longer qualifies as an urban county under such subparagraph in a fiscal year beginning after fiscal year 1989, shall retain its classification as an urban county for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year (i) the amount of the grant to such an urban county shall be 50 percent of the amount calculated under section 106(b); and (ii) the remaining 50 percent shall be added to the amount allocated under section 106(d) to the State in which the urban county is located and the urban county shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 106(d) as increased by this sentence.".

(c) INCLUSION OF UNITS OF GENERAL LOCAL GOVERNMENT IN URBAN COUNTIES.—Section 102(d) of the Housing and Community Development Act of 1974 is amended by striking the last sentence.

SEC. 504. ELIGIBLE ACTIVITIES.

(a) ELIGIBLE ACTIVITIES.—Section 105(a)(15) of the Housing and Community Development Act of 1974 is amended by striking out "grants" both places it appears and inserting in lieu thereof "assistance".

(b) ENERGY USE STRATEGIES.—Section 105(a)(16) of such Act is amended to read as follows:

"(16) activities necessary to the development of energy use strategies related to a recipient's development goals, to assure that those goals are achieved with maximum energy efficiency, including items such as—

"(A) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, waste management, district heating and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions; and

"(B) a statement of the actions the recipient will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities;".

SEC. 505. STATEMENT OF ACTIVITIES AND REVIEW.

Section 104(a)(1) of the Housing and Community Development Act of 1974 is amended by striking out the last sentence.

SEC. 506. ALLEVIATION OF LAKEFRONT FLOODING AND EROSION.

Section 104(b)(3) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "(A)" after "except that"; and

(2) by inserting before the semicolon at the end the following: "; and (B) a grantee that borders on the Great Lakes and that experiences significant adverse financial and physical effects due to lakefront erosion or flooding may include in the projected use of funds activities that are clearly designed to alleviate the threat posed, and rectify the damage caused, by such erosion or flooding if such activities will principally benefit persons of low and moderate income and the grantee certifies that such activities are necessary to meet other needs having a particular urgency".

SEC. 507. HOUSING ASSISTANCE PLANS.

(a) HOUSING PRESERVATION.—Section 104(c)(1) of the Housing and Community Development Act of 1974 is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) specifies activities that will be undertaken annually to minimize displacement and preserve or expand the availability of housing for persons of low and moderate income, such as the preservation of single room occupancy housing and the development by public and private nonprofit organizations of vacant properties that become available under in rem proceedings, and specifies separately the activities that will be undertaken for persons of low income and the activities that will be undertaken for persons of moderate income.".

(b) TECHNICAL AMENDMENTS.—Section 104(c)(1) of the Housing and Community Development Act of 1974 is amended—

(1) by striking "lower income persons" each place it appears and inserting "persons of low and moderate income"; and

(2) in subparagraph (C)(ii), by striking "low-income persons" and inserting "persons of low and moderate income".

SEC. 508. CITIZEN PARTICIPATION PLAN.

Section 104(a) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(3) A grant under section 106 may be made only if the grantee certifies that it is following a detailed citizen participation plan which—

"(A) provides for and encourages citizen participation, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blight areas and of areas in which section 106 funds are proposed to be used, and in the case of a grantee described in section 106(a), provides for participation of residents in low and moderate income neighborhoods as defined by the local jurisdiction;

"(B) provides citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds, as required by regulations of the Secretary, and relating to the actual use of funds under this title;

"(C) provides for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;

"(D) provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped;

"(E) provides for a timely written answer to written complaints and grievances, within 15 working days where practicable; and

"(F) identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

This paragraph may not be construed to restrict the responsibility or authority of the grantee for the development and execution of its community development program.".

SEC. 509. CONSERVING NEIGHBORHOODS AND HOUSING BY PROHIBITING DISPLACEMENT.

(a) IN GENERAL.—Section 104 of the Housing and Community Development Act of 1974 is amended—

(1) by redesignating subsections (d) through (j) as subsections (e) through (k), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) A grant under section 106 or 119 may be made only if the grantee certifies that it is following a residential antidisplacement and relocation assistance plan. A grantee receiving a grant under section 106(a) or section 119 shall so certify to the Secretary. A grantee receiving a grant under section 106(d) shall so certify to the State.

"(2) The residential antidisplacement and relocation assistance plan shall in connection with a development project assisted under section 106 or 119—

"(A) in the event of such displacement, provide that—

"(i) governmental agencies or private developers shall provide within the same community comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low and moderate income dwelling units demolished or converted to a use other than for housing for low and moderate income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under section 8 of the United States Housing Act of 1937;

"(ii) such comparable replacement dwellings shall be designed to remain affordable to persons of low and moderate income for 10 years from the time of initial occupancy;

"(iii) relocation benefits shall be provided for all low or moderate income persons who occupied housing demolished or converted to a use other than for low or moderate income housing, including reimbursement for actual and reasonable moving expenses, security deposits, credit checks, and other moving-related expenses, including any interim living costs; and in the case of displaced persons of low and moderate income, provide either—

"(I) compensation sufficient to ensure that, for a 5-year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent; or

"(II) if elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under subclause (I) to permit the household to secure participation in a housing cooperative or mutual housing association;

"(iv) persons displaced shall be relocated into comparable replacement housing that is—

"(I) decent, safe, and sanitary;

"(II) adequate in size to accommodate the occupants;

"(III) functionally equivalent; and

"(IV) in an area not subject to unreasonably adverse environmental conditions;

"(B) provide that persons displaced shall have the right to elect, as an alternative to the benefits under this subsection, to receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) if such persons determine that it is in their best interest to do so; and

"(C) provide that where a claim for assistance under subparagraph (A)(iv) is denied by a grantee, the claimant may appeal to the Secretary in the case of a grant under section 106 or 119 or to the appropriate State official in the case of a grant under section 106(d), and that the decision of the Secretary or the State official shall be final unless a court determines the decision was arbitrary and capricious.

"(3) Paragraphs (2)(A)(i) and (2)(A)(ii) shall not apply in any case in which the Secretary finds, on the basis of objective data, that there is available in the area an adequate supply of habitable affordable housing for low and moderate income persons. A determination under this paragraph is final and nonreviewable.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1988.

SEC. 510. LIMITED NEW CONSTRUCTION OF HOUSING UNDER COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

Section 105(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(19) provision of assistance to facilitate substantial reconstruction of housing owned and occupied by low and moderate income persons (A) where the need for the reconstruction was not determinable until after rehabilitation under this section had already commenced, or (B) where the reconstruction is part of a neighborhood rehabilitation effort and the grantee (i) determines the housing is not suitable for rehabilitation, and (ii) demonstrates to the satisfaction of the Secretary that the cost of substantial reconstruction is significantly less than the cost of new construction and less than the fair market value of the property after substantial reconstruction.".

SEC. 511. AVAILABILITY OF COMMUNITY DEVELOPMENT BLOCK GRANTS FOR UNIFORM EMERGENCY TELEPHONE NUMBER SYSTEMS.

Section 105(c)(2) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(3) by adding at the end thereof the following new subparagraph:

"(B) The requirements of subparagraph (A) do not prevent the use of assistance under this title for the development, establishment, and operation for not to exceed 2 years after its establishment of a uniform emergency telephone number system if the Secretary determines that—

"(i) such system will contribute substantially to the safety of the residents of the area served by such system;

"(ii) not less than 51 percent of the use of the system will be by persons of low and moderate income; and

"(iii) other Federal funds received by the grantee are not available for the development, establishment, and operation of such system due to the insufficiency of the amount of such funds, the restrictions on the use of such funds, or the prior commitment of such funds for other purposes by the grantee.

On the next day, Article II was incorporated into the Joint Draft Text as a provision fully accepted by both parties. In so doing, the U.S. team had secured language which insured that future ABMs were covered and which reinforced the September agreement on Article V(1) that mobile ABMs, both existing and future, would be confined to research.

Thus, by late December, the subject of whether or not the treaty would restrict both present and future types of mobile ABMs was essentially closed except for a drafting change proposed by the U.S. in April, and accepted by the Soviets. (This minor change made clear that mobile components of an otherwise fixed land-based system were prohibited.) After completion of Article II, with regard to NSDM 127 the remaining issue was the U.S. proposal to prohibit the deployment of future types of ABMs which were fixed and land-based. None of the statements or proposals made by either delegation between the completion of Article II on December 22, 1971, and the conclusion of the negotiations raised questions about the agreement reached on prohibiting mobile ABMs. The delegations did continue to discuss Article V, but the negotiations were completely focused on the U.S. proposal for Article V(3), which at that time related to fixed land-based ABMs.

C. NEGOTIATION ON FIXED LAND-BASED ABM'S

The U.S. had first proposed in August 1971 that the treaty text include an Article prohibiting the deployment of fixed land-based ABMs using future technology. This became known as Article V(3). Throughout the fifth session in Helsinki, the Soviet delegation expressed its opposition to such a prohibition. While the Soviets did agree in the fifth session to a broad ban in Article V(1) on future ABMs which were mobile, the U.S. proposed Article V(3) on fixed land-based systems remained in brackets, indicating disagreement, in the joint draft text when the fifth session ended.

Early in the sixth session in Vienna, the Soviet delegation renewed its opposition to a ban on futrue fixed land-based ABMs. Their opposition took the form of asserting that the treaty should not limit weapon systems which could not be explictly identified. Some members of the U.S. delegation beleived that the Soviets were engaged in a fishing expedition—attempting to obtain information on secret U.S. laser research programs. Their opposition, however, never extended to the ban in Article V(1) on mobile ABM systems. At no time did the Soviet delegation deny or cast doubt on the agreement reached between Graybeal and Karpov on September 15. Moreover, in early December, while expressing opposition to the U.S. proposal on future fixed land-based ABMs, Chulitsky, a Soviet negotiator, made an explicit statement that future mobile-type ABMs were already prohibited by Article V(1). On December 4, Chulitsky argued "that the prohibition on air-based, space-based, land-based, [sic] etc. ABM systems is *adequate to cover the problem of future systems.*"

Despite this initial opposition to banning deployment of future fixed land-based ABMs, substantial progress on the question was made during the sixth session; and the issue was finally settled during the seventh. In a series of steps, from December 1971 to May 1972, involving Articles I, II, III, and Agreed Statement D, the delegation obtained Soviet agreement to ban deployment of future fixed land-based ABM systems. First, full agreement was reached on Articles I and II. Second, the U.S. withdrew Article V(3) but obtained the same ban on future fixed land-based ABMs in Agreed Statement D and Article III.

ARTICLE I(2)

At the opening of the sixth session, the Soviet delegation proposed that Article I include an undertaking not to deploy ABM systems for a defense of either sides' territory. On November 30, Soviet negotiator Kishilov described his new language as a "partial substitute" for the U.S. proposal on future systems in Article V(3). We accepted the new Soviet language on December 21, after the insertion of a phrase also prohibiting a "base" for a territorial defense. On the same day, both delegations agreed to Article II, which defined an ABM system as including future systems. Thus, the combination of Article I and Article II partially fulfilled the objectives of NSDM 127—that the treaty not allow circumvention of the ban on nationwide defenses through deployment of future fixed land-based ABMs. At the same time, we continued to insist that Article I did not obviate the need for specific language prohibiting that deployment.

By this time, the delegation was authorized to provide examples of future ABM systems. This instruction was designed as a response to the Soviet argument that future ABMs should be identified. On December 10, 1971, pursuant to these instructions, Harold Brown specified the "lasers and particle accelerators" would be covered by the proposed ban. Following Brown's identification of future systems, an important facet of the Soviet rationale for objecting to deployment ban became apparent in a December 10 exchange between Soviet negotiator Shchukin and Paul Nitze. Shchukin explained that both sides had agreed to prohibit territorial defenses and that the Soviet proposal for Article I would "ban the deployment of future systems in a manner providing a territorial defense." However, if new technology were to allow the permitted ABM functions at fixed land-based sites to be carried out "in a more efficient and less costly manner" he believed such new technology should be permitted. When Nitze asked how the sides could be sure that the nature of new technologies would not render meaningless the numerical restrictions in Article III on permitted systems, Shchukin suggested, "were such future systems to reach a stage where they could be deployed, the question would be referred to the Standing Commission, through which the necessary regulations could be worked out." Nitze then asked Shchukin whether the Soviets could agree that no such deployment could take place without prior agreement in the SCC. Shchukin said yes.

This discussion helped prepare the groundwork for subsequent agreement. NSDM 127 had indicated that the U.S. objective was to prohibit the deployment of future fixed land-based ABMs but to allow development and testing. The instructions also indicated that any problems that might arise should be handled through the SCC. Soviet negotiator Shchukin's comments made clear that the Soviet Union would be willing to accept this formulation, and the basis for agreement was apparent.

AGREED STATEMENT D AND ARTICLE III

After recognizing that the essence of both sides' positions were not that far apart, on December 17 Garthoff suggested the possibility that Article V(3) need not necessarily be part of the treaty but could be an agreed interpretation, so long as the substance of the U.S. position was maintained. Three days later, Garthoff told his counterpart that while an "agreed minute" might be acceptable in lieu of the language in Article V(3) "there must be a clear agreed mutual understanding that, prior to any deployment of future systems and components, there would be consultation and agreement in the Standing Consultative Commission." On December 20, when Garthoff transmitted proposed language for the agreed minute, he said, "while maintaining our basic position on this matter, the U.S. side is willing to drop Article V(3) if there is a clear agreed understanding." Thus, when the U.S. delegation proposed to drop Article V(3), it did so on the condition that its "basic position" on future fixed land-based ABM systems be made part of a binding understanding, not as a trade-off for other Soviet concessions. Indeed, Article V(3) was not actually dropped from the draft text until much later when the U.S. delegation was satisfied that its substance had been fully agreed.

The proposed agreed minute was to be tied to Article III, which specified the permitted ABM deployments. While Article III of the Treaty was not completed until the seventh session in April 1972, the basic substance of the Article was clear in January 1972: each side would only be permitted limited ABM deployment areas, and severe quantitative and qualitative limits would be placed on the fixed systems located at the designated areas. The U.S. goal was to ensure that these limits could not be obviated through deployments of ABM systems and components which employed new technology or by other circumventions. Paul Nitze expressed this concern on January 11, 1972, asking rhetorically, if future "components were developed and could in fact be deployed in a manner to circumvent the specific limitations of Article III of the treaty, would it not be appropriate that they also be subject to agreement between our Governments?"

Negotiating exchanges in January 1972 demonstrated that both delegations understood that large-scale deployment of future fixed land-based systems would be prohibited even without the agreed minute to replace Article V(3). According to the negotiating record, on January 11 Garthoff asked his Soviet counterpart whether, "in the light of Article I, II, III, Grinevsky considered that a part would have the right—assuming consultations were held and did not lead to agreement—to deploy all around the country, say, a thousand stations for firing anti-ballistic missile laser interceptor beams. Grinevsky said no, it would not have such a right. But, he countered, it should be able to place telescopes."

The example of "telescopes" raised an important question which, among other things, delayed final agreement on the text of Agreed Statement D. Telescopes, making use of different technology, could be used to assist ABM radars in discriminating between real reentry vehicles and decoys or chaff. Such devices, which the U.S. side called "adjuncts," were not intended to substitute for ABM launchers, radars, and missiles, but merely to supplement them. Indeed, like the Soviet military, the U.S. Joint Chiefs of Staff wanted to ensure that "adjuncts" based on new technology could be part of a permitted deployment. Resolving how the possibility of "adjuncts" would be treated, which was of great importance to the Defense Department, required many more days of discussions but is not central to the reinterpretation issue.

JANUARY 31, 1972

After two more weeks of negotiation on Agreed Statement D, the sides agreed on two important points at a January 31, 1972, meeting. First, the combination of Articles I, II, III would prohibit the deployment of future fixed land-based ABM systems even without an agreed understanding. Second, the agreed understanding would require that future deployment of components based on "other physical principles" be subject to discussion and agreement in the SCC if the new technology could substitute for the components limited in Article III, but not if it merely served as an "adjunct" to those components.

At that meeting, Garthoff read to his Soviet counterpart Grinevsky a prepared paper, entitled "Statement on 'Future ABM Systems,'" which expressed these two points clearly. It confirmed that no ABM systems could be deployed except as provided for in Article III and that Article III "should be drafted so as not to permit the deployment of devices other than ABM interceptor missiles, ABM launchers, or ABM radars to substitute for and perform their functions." The paper also stated that "Devices other than ABM interceptor missiles, ABM launchers, or ABM radars could be used as adjuncts to an ABM system provided that the devices could not perform the functions of and substitute" for these three existing components. Soviet negotiator Grinevsky, after reading this prepared paper, said "he believed there was complete agreement." Within two days, a number of minor drafting changes were completed and both delegations expressed their satisfaction with the language of Agreed Statement D.

The final discussions on Article III took place at the sixth and seventh negotiating sessions. In keeping with the mutual understanding reached in January that Article III would prohibit deployment of any ABM systems other than those expressly permitted in the article, we proposed on April 26, 1972, the following lead-in language to Article III: "Each Party undertakes not to deploy ABM systems or their components except as follows: . . ." On April 28, Soviet negotiator Grinevsky told Parsons that the Soviet delegation could agree to a formulation for Article III in which neither side could deploy ABM systems or their components "except as the Article would provide" and that "this would ban 'other systems.'" (Grinevsky's statement is also confirmation that the Soviet delegation understood that the phrase "ABM systems and components" includes future systems.) The final text agreed to in May 1972 incorporated this lead-in.

The U.S. recognized from January 1972 onward that because Article III would prohibit deployment of any system which it did not expressly permit, Agreed Statement D was not strictly necessary to prevent deployment of future fixed land-based ABM systems. However, because the U.S. had constantly been seeking more, not less, specificity and precision, there was no sensible reason to delete it, especially since Article III and Agreed Statement D were mutually reinforcing. Indeed, the U.S. believed the agreed understanding was important for other reasons. NSDM 127 instructed the delegation that the agreement "should not prohibit the development and testing of future ABM components in a fixed land-based mode" and that "the agreement should not be interpreted in such a way that either side could circumvent its provisions through future ABM systems or components." Because Agreed Statement D only prohibited the deployment of future fixed land-based systems, it implicitly allowed development and testing. Moreover, by clarifying that future technologies would become subject to discussion and agreement in the SCC only when they were "capable of substituting for" existing components, Agreed Statement D not only prevented circumvention of the specific limitations on deployment in Article III, it also allowed for the use of new technologies as "adjuncts," an outcome sought by both sides.

THE FINAL MEMORANDUM

From January to May 1972, I wrote a series of Memoranda to clarify what points had been agreed and what points required further discussion. In preparing these Memoranda, I would confer with members of the delegation to determine our understanding of the agreed meaning of various articles in the treaty. The final Memorandum, dated May 24, 1972, reflected the views of the entire U.S. delegation. With respect to Article V(1), it states:

"Paragraph 1 of Article V prohibits the development, testing, or deployment of: an ABM system that is sea-based, air-based, space-based, or mobile land-based; an ABM interceptor missile, ABM launcher, or ABM radar that is sea-based, air-based, space-based, or mobile land-based; a device capable of substituting for an ABM interceptor missile, ABM launcher or ABM radar that is sea-based, air-based, space-based, or mobile land-based (such as an air-based 'killer' laser)."

The memorandum was also clear with regard to the scope of the definition in Article II:

"An ABM system is described in paragraph 1 of Article II in terms of 'current' ABM components. This does not, however, limit the generality of the term ABM system as used in the Treaty to systems composed of 'current' ABM components, but would also include 'future systems' based on physical principles other than those used for 'current' ABM components and capable of substituting for a 'current' ABM component."

Senator Nunn characterized the Memorandum as follows: "In this form, the memorandum fully confirms the Traditional Interpretation of the Treaty as presented to the Senate and directly refutes Sofaer's reinterpretation." Indeed, the substance of the advice in this memorandum as summarized in a chapter I wrote for a book, (published in 1974), which stated "The overall effect of the treaty, therefore, is to prohibit any deployment of future systems and to limit their development and testing to those in a fixed land-based mode."

There is no doubt whatsoever that the entire U.S. delegation, including Paul Nitze, reviewed and agreed on this issue in 1972. The reinterpretation is nothing short of a repudiation of the delegation's explicit and unanimous understanding of the treaty's meaning.

The history of the ABM Treaty negotiations demonstrates that when the U.S. and Soviet delegations reached agreement on the text of the treaty both sides understood its meaning as being the traditional interpretation. That interpretation establishes the legal obligations of the United States under international law and domestic law. Unilateral U.S. implementation of the new interpretation without an agreed formal amendment would constitute a material breach of the treaty.

BEYOND THE REINTERPRETATION

During the negotiations, the delegation purposely left open details as to the exact scope of the term ABM "component" in the context of future technologies. This was consistent with NSDM 127, which sought agreement on the broad principle. It also reflected the fact that the U.S. government did not then know how to address that subject sensibly at a high level of specificity. What constitutes a new "component," coupled with the related question of the dividing line between permitted research and prohibited development, are the issues that should be engaging the U.S. and Soviet delegations now in Geneva. While their current public position is unduly restrictive, the Soviets have offered to negotiate these issues. The U.S. delegation, however, reportedly has explicit instructions from President Reagan not to negotiate on this question because it would legitimize the traditional interpretation. This is an unprecedented posture for the United States since the beginning of SALT and one which will almost certainly block any chance to achieve the deep reductions in offensive systems the President seeks. The posture is particularly unfortunate, because a prudent, verifiable threshold applicable to future systems would even permit continued research and development in space on SDI programs, as long as the work remained below the capabilities necessary for a true ABM role.

The Congress and Executive are unlikely to remain in a stalemate over the reinterpretation issue in the context of the upcoming budget. If enacted, the pending Nunn-Levin amendment would have the effect of legislating the "traditional" interpretation as part of the Senate's Defense Department authorization bill. That amendment could be added to the appropriations bill or a continuing resolution. A similar provision passed the House by a vote of 262–159. Such an approach is clearly constitutional. While the President threatens a veto, it is hard to imagine the government shutting down over disagreement on this issue. Congress should remain firm. Using its power of the purse, Congress should require U.S. adherence to the traditional interpretation.

From a political point of view, the White House continues to suffer serious damage by not accepting the position of Senator Nunn, Chairman of the Senate Armed Services Committee, and thus avoiding a major confrontation with this pro-defense, conservative Democrat, whose support is so critical to the Defense Department. It appears to be sheer madness to challenge Nunn's reasoned views, which were understated, but laid out with characteristic precision. This is especially true because the reinterpretation is not even necessary in order to continue a robust SDI program, which Nunn supports. The President's closest advisers must try to regain control of political reality.

The consequences of McFarlane's ill-advised announcement nearly two years ago, and the constantly unsound advice received from Sofaer both before and after, continue to bedevil the administration. The President should come to understand that while the reinterpretation may not block a summit and an INF agreement, it is a legal sham that seriously damages the international credibility of the United States and makes impossible the achievement of deep reductions in offensive arms, which could be the capstone of the Reagan presidency.

NOTES

The full quotation reads:

"The future systems ban applies to devices which would be capable of substituting for one or more of the three basic ABM components, such as a 'killer' laser or a particle accelerator. Article III of the treaty does not preclude either development or testing of fixed land-based devices which could substitute for ABM components, but does prohibit their deployment. Article V, on the other hand, prohibits development and testing, as well as deployment, of air-based, sea-based, space-based, or mobile land-based ABM systems or components, which *includes 'future systems' for those kinds of environments.* The overall effect of the treaty, therefore, is to prohibit any deployment of future systems and to limit their development and testing to those in a fixed land-based mode. Certain devices, such as telescopes, which are simply adjuncts to, not substitutes for, present ABM components are not covered."

See John B. Rhinelander, "The SALT I Agreements," in Mason Willrich and John B. Rhinelander, "SALT: The Moscow Agreements and Beyond" (New York: The Free Press, 1974), p. 128.

Quotations in this article were drawn primarily from actual memoranda prepared by the U.S. delegation during the ABM Treaty negotiations and released by the Department of State on May 11, 1987. Statements by Soviet negotiators cited in this article are based on the notes of the U.S. negotiators. All emphases in the quotes are added by the authors. Additional sources include:

"The ABM Treaty, Part I: Treaty Language and Negotiating History," Office of the Legal Advisor, Department of State, May 11, 1987; "Interpretation of the ABM Treaty, Part IV: An Examination of Judge Sofaer's Analysis of the Negotiating Record." Senator Sam Nunn, May 19, 1987; "Policy vs. Law: The Reinterpretation of the ABM Treaty." Raymond L. Garthoff (Washington, DC: The Brookings Institution, September 1987).

THE MEANING OF THE ABM TREATY

The following description of how the ABM Treaty deals with future systems will help the reader appreciate the reasoning of the delegation as it built the interlocking components of the treaty.

Article I(2) sets out the object and purpose of the treaty. It reads: "Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region except as provided for in Article III of this Treaty." The remainder of the treaty consists of a series of Articles which express more specific obligations of the parties in fulfilling this object and purpose.

Artile II(1) provides the critical definition: "For the purpose of this Treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of: a) ABM interceptor missiles . . . b) ABM launchers . . . c) ABM radars."

This definition is functional. An ABM system is defined as *any* weapon system functionally able to "counter strategic ballistic missiles or their elements in flight trajectory." The fact that an ABM system could include components based on new technologies is implicity referred to by the phrase "currently consisting of." By stating that ABM systems "currently" consist of missiles, launchers, and radars, the language purposefully indicates that ABM systems could consist of other components. Otherwise, the word "currently" would not be necessary. Moreover, the fact that a comma was included in the text made clear that the subsequent phrase was non-restrictive in nature.

Article III provides the specific quantitative, qualitative, and geographic limits on the permitted ABM deployment of fixed land-based ABM systems consisting of interceptor missiles, launchers, and radars. The opening clause reads: "Each Party undertakes not to deploy ABM systems or their components except" those specified in the rest of this Article which are explicitly limited to "current" technology. By virtue of this lead-in language, the Article makes clear that all deployments are prohibited except those that are expressly permitted and specifically that deployment of future ABM systems and components is not allowed. The provision goes on to provide that "a Party may deploy . . . no more than one hundred ABM launchers and no more than one hundred ABM interceptor missiles at launch sites [and certain] ABM radars . . ." at two geographically designated areas, a right which was rendered to one deployment area in the 1974 ABM Protocol. By limiting the firepower of the permitted systems, and by virtue of the specific qualitative and geographic limits, Article III was expressly designed to ensure that Article I was not circumvented by deployment of any "future" systems.

Article V provides a critical barrier against the deployment of nationwide defenses or a base for such a deployment. The first paragraph of Article V reads: "Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based." Space-based and other mobile ABM systems are inherently capable of a nationwide defense. They were confined to the research stage. Because of the functional definition of an ABM system in Article II, this broad ban on space-based and other mobile systems applies to any of ABM system, regardless of whether its components include interceptor missiles or high-powered lasers capable of substituting for such missiles.

Article IV authorizes the development and testing of fixed land-based systems at ABM test ranges. In addition to sanctioning development and testing, this Article prohibits unauthorized "deployment" around the country in the guise of test programs. By prohibiting the testing of any space-based components, Article V(1) buttresses this aspect of Article IV. However, Article IV and the rest of the Treaty permit the development and testing of *fixed land-based future systems* at ABM test ranges.

Article VI is intended to ensure that the treaty cannot be circumvented by using weapon systems designed for other purposes as ABMs. In so doing, it limits non-ABM activities by applying the same functional definition of an ABM system used in Article II of the treaty: "each Party undertakes: (a) not to give missiles, launchers, or radars, other than ABM interceptor missiles, ABM launchers, or ABM radars, capabilities *to counter strategic balistic missiles or their elements in flight trajectory,* and not to test them in an ABM mode . . ."

Article XV provides that "This Treaty shall be of unlimited duration." This article makes clear that the treaty was intended as a permanent obligation. It would have been a near contradiction in terms to provide permanent obligations limited to the technology of the day.

The treaty also contains a series of clarifying and interpretive "Agreed Statements," one of which, Agreed Statement D, relates to future ABM systems. Agreed Statement D supplements Article III, which dealt exclusively with fixed land-based systems. This was made clear in its opening clause: "In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty . . ." Agreed Statement D goes on to provide that if future fixed land-based systems are created, their deployment "would be subject to discussion in accordance with Article XIII (procedures of the SCC) and agreement in accordance with Article XIV of the Treaty (amendment procedure)." Thus, while Agreed Statement D provides a mechanism to consider deployment of future fixed land-based ABM systems, it makes clear that deployment would require agreement and amendment of the treaty. This amendment would then have to be submitted to the Senate for its advice and consent, underscoring the fact that further deployment of systems involving exotic technologies wasd a fundamental issue that could undermine the basic objective and operation of the treaty.

HISTORY CONFIRMS THE TRADITIONAL MEANING—U.S. AND SOVIET SUBSEQUENT PRACTICE UNDER THE ABM TREATY

(By Raymond L. Garthoff)

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In justifying the Reagan administration's radical rewriting of the Antiballistic Missile (ABM) Treaty, administration spokesmen have repeatedly claimed that the Soviet Union never committed itself to the traditional interpretation. That interpretation, which goes to the very heart of the treaty, prohibits development and testing of space-based and other mobile ABM systems and components whether based on traditional ABM technology or on "other physical principles." In an article in the Harvard Law Review in 1986, State Department Legal Adviser Abraham Sofaer, the reinterpretation's chief legal champion, stated that the Soviet Union did not "begin explicitly to articulate the restrictive interpretation" until after the U.S. reinterpretation was announced in October 1985. That statement is incorrect, and the argument that flows from it is unfounded.

A number of clear and authoritative Soviet statements have spelled out the traditional view, both before and after the October 1985 announcement of the U.S. reinterpretation. In particular, Marshal Sergei Akhromeyer, Chief of the Soviet General Staff and First Deputy Minister of Defense, set out the Soviet position unequivocally in a major Pravda article which appeared months before the U.S. announced its new position. After the treaty's text, such statements of interpretation—referred to as "subsequent practice"—are the most important source of information in determining a treaty's meaning. Both U.S. and Soviet subsequent practices under the ABM Treaty unambiguously support the traditional interpretation. The traditional reading of the treaty's terms is thus binding on both parties.

THE ISSUE

On October 6, 1985, the then national security adviser, Robert McFarlane, casually announced a new interpretation of the ABM Treaty: This new "broad" interpretation would permit development and testing of space-based and other mobile ABM systems and components "based on other physical principles"—such as lasers or particle beams. In essence, the "broad" interpretation holds that such futuristic ABM systems are not "ABM systems and components" as those words are used in the treaty, and hence most of the treaty's limitations, including the Article V(I) ban on development and testing of space-based ABM systems and components, do not apply to them. If valid, the broad interpretation would open up much greater opportunities for development and testing under the administration's Strategic Defense Initiative (SDI).

The broad interpretation has been rejected by all but one of the U.S. ABM Treaty negotiators—and Paul Nitze, the one negotiator who now supports the administration's position, had previously held the traditional view. (None of the negotiators except Nitze, now a senior arms control adviser for the President and the Secretary of State, had been consulted prior to the announcement of the new interpretation.) Senator Sam Nunn (D-GA) has released an exhaustive and scathing four-part critique of the arguments put forward by State Department Legal Adviser Abraham Sofaer, the reinterpretation's chief advocate. Nevertheless, the administration continues to hold that its new interpretation is "the legally correct interpretation."

The immediate issue is whether the administration's claim that the ABM Treaty allows development and testing of space-based ABM systems and components based on other physical principles is justified. The larger question is whether the United States should support a policy that clearly violates threaty obligations which constitute the law of the land. The issue also involves the international obligations and credibility of the United States as a supporter of the rule of law. Added to these considerations are the future of arms control and the U.S.-Soviet relationship.

TREATY INTERPRETATION

How is the meaning of a treaty determined? According to the canons of legal interpretation, the first and strongest evidence is the express language of a treaty. This means the letter of a treaty, not its spirit. The purpose of the treaty is, however, relevant in determining the meaning of the language. Language must be interpreted in good faith. Only if the language is not sufficiently clear does one go on to the next step, review of subsequent practice. The term subsequent practice covers the whole range of practical implementation of a treaty as evidence reflecting the understanding of the parties as to the meaning of the treaty's terms. Both actions and statements must be considered. (The ABM Treaty ratification record is also mentioned here to provide a more complete picture of U.S. and Soviet understanding of the treaty.) Normally, only if subsequent practice is unclear does one review the negotiating record, to determine the intent and the understanding of the parties, particularly as conveyed by their negotiations as they agreed upon the language of the treaty.

The Sofaer reinterpretation violated this established process. The express language of the treaty was challenged on the basis of the logic of its construction rather than its intent. Then a reconstruction of the logic of the language was justified by a reading of parts of the negotiating record. Subsequent practice had not been given more than the most superficial review before the new interpretation was adopted. Indeed, at this writing Sofaer's study of the subsequent practice of the parties has still not been sent to the President or to the Congress. Despite the absence of any study of the subsequent practice of the parties—after the treaty's text, the most critical evidence in determining a treaty's meaning—the administration continues to claim that the broad interpretation is "fully justified."

SUBSEQUENT ACTIONS UNDER THE ABM TREATY

The United States and the Soviet Union have without exception acted in accordance with the traditional interpretation of the ABM Treaty. While both the United States and the Soviet Union have pursued military research programs in such possible ABM technologies as lasers and particle beams, neither nation's programs have yet reached the point of development or testing of mobile ABM systems or components based on other physical principles.

Both before and after the reinterpretation was announced, the Reagan administration has insisted that it is conducting its SDI program entirely within the constraints of the traditional interpretation. Similarly, while the Reagan administration has charged the Soviets with a variety of violations or probable violations of the ABM Treaty, neither the Reagan administration nor any other administration has ever alleged that the Soviets have conducted any development or testing of ABM systems and components "based on other physical principles" that would be limited under the traditional view.

Some skeptics argue that national technical means of verification may not be adequate to detect some activities going beyond the constraints imposed by the traditional interpretation. But that is a supposition, and whatever weight it may be given for other purposes, it does not provide any evidence supporting the reinterpretation.

Advocates of the reinterpretation argue that there has simply not yet been opportunity for testing advanced technologies. While that point does diminish the weight of the absence of contravening actions as an argument for the traditional interpretation, it does not provide a basis for arguing that subsequent practice lends any support to the reinterpretation.

U.S. SUBSEQUENT STATEMENTS CONCERNING THE ABM TREATY

Numerous official U.S. statements from 1972 to 1985 directly support the traditional interpretation, none assert the reinterpretation. The interpretations provided to the Senate during the ratification process clearly supported the traditional view, including authoritative statements by the Secretary of Defense, the Director of Defense Research and Engineering and the acting Chief of Staff of the U.S. Army. As a result, the Senate gave its consent to ratification, by a vote of 88-2, understanding the treaty to ban all development and testing of space-based and other mobile ABM systems and components. All U.S. administrations from 1972 to 1985, including the Reagan administration prior to October 1985, have made clear and unequivocal statements of the traditional view. As Senator Nunn has pointed out in his excellent studies of the subject, prior to 1985 there were no U.S. government statements that directly supported the reinterpretation.

What is less widely known is that the Soviet government has also unequivocally and authoritatively stated its adherence to the traditional view, even before the U.S. reinterpretation was announced. This fact fundamentally undermines the administration's case, for a primary rationale advanced for the new interpretation is that the *Soviet Union* might not consider itself bound by the traditional interpretation, and that the United States should not let itself be bound unilaterally.[1] It is important, therefore, to review Soviet statements concerning the interpretation of the ABM Treaty as it relates to development and testing of space-based and other mobile ABM systems based on other physical principles.

THE SOVIET RATIFICATION PROCESS

Unlike the U.S. ratification record, the publicly available portion of the Soviet ratification record does not provide any decisive evidence either supporting or contradicting the reinterpretation. Two statements, however, are relevant to the issue.

On September 29, 1972, in the absence of Foreign Minister Andrei Gromyko, First Deputy Minister of Foreign Affairs Vasily V. Kuznetsov, "on behalf of the Soviet Government," gave the Presidium of the Supreme Soviet of the U.S.S.R. the official Soviet government position on the ABM Treaty. He drew attention among other things to the provision that "the parties are obligated not to create and not to deploy sea-, air-, space-, or mobile- land-based antiballistic missile defense systems or components." While he did not specifically address the matter of future systems based on other physical principles, he presented the ban on creation (development and testing) of mobile ABM systems as an unqualified obligation.

Marshal Andrei Grechko, then Minister of Defense, also testified before the Presidium of the Supreme Soviet. He stated that the ABM Treaty "does not place any limitations on the conduct of research and experimental work directed toward solution of the problems of defense of the country against nuclear-missile strikes." That broad statement essentially asserts what adherents of both the traditional and broad interpretations agree: the treaty does not prohibit research or laboratory experimentation short of developmental testing. Even if the term "experimental work" were construed as including system or component testing, in my view not a warranted reading, it would still be entirely compatible with permitted development and testing of fixed land-based systems and components. Contrary to allegations made by some proponents of the broad interpretation, Grechko did not assert that development and testing of new types of space-based, air-based, sea-based, or mobile land-based ABM systems or components were allowed. Indeed, he made no statement about such systems, nor about future systems based on other physical principles.

SOVIET POSTRATIFICATION STATEMENTS

Sofaer has claimed that the Soviets did not "begin explicitly to articulate the restrictive interpretation" until after the U.S. reinterpretation was announced in October 1985, and dismisses all Soviet assertions of it since that date on the grounds that they are merely opposing the U.S. position. His representation of the record before October 1985 is untrue; his dismissal of statements after that date is unwarranted. If the ad-

[1] Footnotes at end of article.

ministration argues that the reinterpretation is necessary to avoid a "double standard" binding, the U.S. but not the Soviet Union, authoritative and insistent Soviet affirmations of the traditional interpretation since October 1985, as well as before, are clearly relevant.

Some advocates of the reinterpretation go so far as to argue that all Soviet statements since March 23, 1983, are irrelevant, on the grounds that they are made in opposition to SDI, launched by President Reagan's speech on that date. What such arguments conveniently overlook is that until then, there was no need for Soviet (or other) commentaries to address the matter, because there was no issue. Moreover, whatever their purpose, these statements reconfirm Soviet acceptance of the traditional interpretation.

Of particular importance would be any statements of interpretation exchanged between the two sides, although, the issue not having arisen, one would not expect to find many such direct statements, at least before 1983. There are at least two such exchanges that include significant and relevant Soviet statements.

The first was between Ambassador Viktor Karpov, one of the Soviet ABM Treaty negotiators, and his U.S. counterpart, Ambassador Ralph Earle II, during the SALT II negotiations. On March 16, 1976, when the question of use of the word "currently" was in dispute, Karpov recalled that in negotiations on Article II of the ABM Treaty the word "currently" had been appropriate because that treaty was of unlimited duration and future components could emerge, which the treaty would be expected to cover. In other words, he took for granted and espoused the traditional interpretation of Article II of the ABM Treaty.

Sofaer's assistants learned of Karpov's remark in 1985, but although William Sims, a member of Sofaer's staff, brought it to his attention, he chose to exclude it from his October 1985 report and his classified report of August 1986, submitted to the U.S. Senate.

The second statement was by Lieutenant General Viktor Starodubov, then the Soviet Commissioner on the Standing Consultative Commission, to his counterpart, General Richard Ellis, in May 1985. He stated that under the treaty ABM systems or components based on other physical principles could not be tested in space. This statement, which preceded the reinterpretation and was in accordance with the official U.S. view at the time, clearly showed Soviet adherence to the traditional interpretation. Senator Nunn has called these two statements "smoking guns" for the traditional interpretation.

In addition to these private statements, there have been numerous public Soviet statements grounded in the traditional view, both before and after the announcement of the U.S. reinterpretation.

Colonel General Nikolai Chervov, for example, the head of the General Staff directorate charged with arms control matters, including interpretation of existing agreements, objected in April 1983 that Reagan's SDI was "completely inconsistent" with the commitments of the ABM Treaty, in particular Article V(I), which he cited in full. He also specifically said that the treaty "bans both sides from developing antiballistic missile defense based on new physical principles—lasers, microwave radiation, beam weapons, and so forth." [2] Another Soviet analyst noted that "it was prohibited to create, test and deploy *other forms and types* of ABM, sea, air, space or mobile land based." [3]

Many Soviet accounts charged actual or prospective violations of the ABM Treaty by particular SDI tests. Thus, for example, several articles charged that a laser demonstration "strike" by a U.S. space-shuttle was a "test" banned by the treaty.[4] While this particular case is probably not a valid charge, since the experiment was not a test of an ABM "component," the point is that the Soviet interpretation of the treaty was the traditional one: development and testing of space-based laser ABMs is prohibited. Many other examples of this kind reflect widespread Soviet understanding of the treaty in the traditional way.

One Soviet statement made before the Reagan administration's adoption of the reinterpretation deserves particular attention. On June 4, 1985, four months before McFarlane spoke (and before Sofaer had even read the ABM Treaty), Marshal Sergei Akhromeyev, Chief of the Soviet General Staff and First Deputy Minister of Defense, published an article on the ABM Treaty in *Pravda*.[5] His elaboration of the traditional interpretation is crystal clear, even if his rhetoric is charged and some of his statements (such as research being prohibited) are unjustified:

"The ABM Treaty (Article V) forbids the creation and testing of spacebased ABM systems or components, that is, precisely the objective of the U.S. "harmless research." In practice the creation of specific models of strike space weapons and even the testing of some of them are in full swing in the United States. Lasers of various types, electromagnetic guns, interceptor missiles, and antisatellite systems are being developed in laboratories and at proving grounds. All this so-called "research work" is in contravention of the ABM Treaty.

"Representatives of the U.S. Administration, counting on the uninformed nature of the public at large, are claiming that the provisions of the ABM Treaty relate only to those ABM systems and components that existed at the time the Treaty was signed. The means now being created and tested within the framework of the "Strategic Defense Initiative," they say, cannot be ranked as "ABM components" since they are not mentioned in Article II of the Treaty.

"The provisions of the Treaty apply to any systems intended, as defined in Article II of the Treaty, to counter strategic ballistic missiles or their elements in flight trajectory. Since the ABM components being created within the framework of the "Strategic Defense initiative" are intended for precisely this purpose, that is, they are designed to replace the interceptor missiles mentioned in the Treaty, all the provisions of the Treaty fully apply to them, above all the ban on the creation, testing, and deployment of space-based ABM systems or components.

"The American authors of the "Star Wars" program are particularly zealous in propagandizing the thesis that the development of "exotic" anti-ballistic missile systems (laser and beam weapons, and so forth) is not only not forbidden by the ABM Treaty, but is even virtually encouraged by it. Thus P. Nitze, adviser to the president and the secretary of state on the Geneva talks, openly presents the creation of space-based ABM components based on other physical principles as an action permitted by the ABM Treaty. For greater cogency references are made to the Agreed Statement accompanying the Treaty (E) [D] which says that in the event ABM systems based on other physical principles and containing components capable of substituting, in particular, for interceptor missiles are created in the future, specific limitation on such systems and their components would be subject to discussion and agreement between the sides.

"On the face of it this is a clear juggling of the facts. The aforementioned Agreed Statement regarding the Treaty indeed does not rule out the possibility of the sides' acquiring anti-ballistic missile systems "based on other physical principles," but only within the framework of the limitations envisaged by the Treaty as a whole, in other words in the single authorized area. The large-scale ABM system with space-based elements that the United States is planning cannot be restricted to a single area. It is a territorial and even a global ABM system that is totally prohibited by the Treaty. Therefore, the creation of laser, beam, and other such destructive components for that system is a direct violation of the Treaty."[6]

This is the chief of the Soviet General Staff, writing in *Pravda* months *before* the U.S. reinterpretation was announced. One could hardly ask for a clearer or more authoritative statement of the Soviet position, upholding the view that development and testing of "exotic" mobile ABM systems and components such as lasers and particle beams is prohibited by the ABM Treaty.

SOVIET REACTION TO THE REINTERPRETATION

The Soviet Union was never consulted before the announcement of the Reagan administration's reinterpretation of the ABM Treaty. Under accepted international practice, a question of material interpretation of obligations under a treaty, especially if it involves change in existing practice or would have the effect of an amendment, should be discussed and agreed upon by the parties. In addition, Article XIII of the ABM Treaty had set up a body and procedures—in the Standing Consultative Commission (SCC)—expressly for considering "questions concerning compliance with the obligations assumed and related situations which may be considered ambiguous." In any case, whether through the SCC or some other diplomatic contact, the question should have been raised with the Soviet Union before the U.S. government pronouncements. Only after the White House confirmation of a new interpretation on October 8 and 14, 1985, was the Soviet Embassy routinely informed of the new American position.

According to U.S. and Soviet diplomatic sources, there was no inquiry into the Soviet interpretation and no offer to discuss the matter. On February 11, 1987, Secretary of State Shultz told the House Appropriations Committee that no negotiations on the issue would be held with the Soviets, that the administration planned to proceed on the basis of "what we think it says." Three months later, the administration released portions of the classified negotiating record, again without consulting the Soviet Union.

Nevertheless, even without the benefit of prior discussions with the Soviets, the Soviet reaction to the Reagan administration's adoption of the new, broad interpretation—prefigured in Marshal Akhromeyev's perceptive prediction—should have come as no surprise to anyone. The reply was prompt. After a brief initial objection by TASS on October 9, 1985, Marshal Akhromeyev was chosen to set forth the official Soviet position in a major article in *Pravda*

on October 19.[7] Akhromeyev derided the reinterpretation as a "deliberate deceit." "Article V of the Treaty," Akhromeyev wrote, "absolutely unambiguously bans the development, testing, and deployment of ABM systems or components of space or mobile land basing, moreover, regardless of whether these systems are based on existing or 'future' technologies." He explained the relevant provisions of the treaty in considerable detail, pointing out in particular that Agreed Statement D allows "creation" only of fixed, land-based systems "based on other physical principles" and in no way amends Article V's ban on development and testing of space-based and other mobile ABM systems and components. Again, the statement could hardly be more authoritative or unambiguous.

It is not necessary to cite all the numerous other Soviet discussions since October 1985 that reaffirm the traditional interpretation and reject the broad interpretation advanced by the Reagan administration. They include statements by the then Soviet defense minister, Marshal Sergei Sokolov, who added that the restriction of Agreed Statement D to fixed land-based systems "is confirmed by those officials who participated directly in the working out of the ABM Treaty"; an analysis in the principal legal periodical *Soviet State and Law*, which was written before the U.S. reinterpretation was announced, though published after it, in November 1985; and articles by several responsible Soviet officials involved in negotiating the ABM Treaty, including the chief of the Soviet delegation, Ambassador Vladimir Semenov, the current disarmanent chief, Ambassador Viktor Karpov, and the former senior deputy foreign minister, Ambassador Georgy Kornienko.[8]

SPACE-STRIKE WEAPONS?

Inasmuch as Sofaer has not at this writing submitted his report on subsequent practice, it is not known how he will treat these statements confirming Soviet adherence to the traditional interpretation. According to some reports, he may argue that the whole Soviet effort in recent years to get a new agreement banning "space strike weapons" implies that the Soviets do not believe that the ABM Treaty bans such weapons. Such an inferential approach is seriously flawed. In particular, it ignores the simple fact that the Soviet definition of space-strike weapons includes more than space-based ABMs. It explicitly includes antisatellite weapons and weapons directed from space at targets on the earth. Space-strike weapons simply cannot be equated with ABM systems.

Moreover, even to the extent the Soviet space-strike proposal duplicates or supersedes the ABM Treaty ban on space-based ABM systems, that does not imply anything that would diminish the ABM Treaty. By analogy, both the Soviet Union and, until 1982, the United States have sought a comprehensive nuclear test ban. No one has ever contended that their interest in such a treaty implied that they did not believe some categories of nuclear testing were already banned by the existing 1963 Limited Test Ban Treaty. Yet that would be the implication if the reported Sofaer approach were applied.

CONCLUSION

The Soviet subsequent practice from 1972 to date, like that of the United States from 1972 until 1985, has fully supported the validity of the traditional interpretation, and explicitly rejected the reinterpretation, both before and after the reinterpretation was announced. The record is unambiguous The Reagan administration's continued support of its radical reinterpretation of the ABM Treaty cannot be justified.

In seeking to place the matter in perspective, one could do worse than apply "the golden rule": what would the United States have thought if after many years the Soviet Union had suddenly, unilaterally, reinterpreted the ABM Treaty (or any other) to suit a policy purpose of its own, contrary to U.S. policy and to the original clear understanding of both parties? What would the United States have thought if the Soviets had then publicly acknowledged that they had done so without examining either their own ratification record or the record of the subsequent practice of the parties, without consulting any but one of their own negotiators, and before compiling much of their own relevant negotiating records?

FOOTNOTES

[1] Of course, the best way to determine whether the Soviets consider themselves bound to the traditional restrictive interpretation would obviously have been to ask them for a clear recommitment. If they did not agree that the traditional interpretation was the correct one, the United States could then have adopted a broader reading, or sought to negotiate agreement on the traditional or any new basis to ensure that both would be bound by the same obligations. The administration did not take this path because it knew that the Soviet government would in fact strongly reaffirm the traditional interpretation, making it much more difficult for the United States to free its hands for SDI testing.

[2] Interview in *Bratislava Pravda*, April 29, 1983.

[3] A.G. Arbatov, "Limitations of ABM Systems—Problems, Lessons, Prospects," *SShA*, (USA), no. 12 (December 1984), p. 19; emphasis added.

[4] See, for example, "Projected Tests," *Pravda*, May 25, 1985.

[5] "The ABM Treaty—An Obstacle in the Path of the Strategic Arms Race," *Pravda*, June 4, 1985.

[6] Marshal Akhromeyev's attribution of the broad interpretation to Nitze and the administration was premature. In fact, in a speech made as recently as May 30, 1985, Nitze had reaffirmed the traditional interpretation explicitly (see Paul H. Nitze, "SDI and the ABM Treaty," U.S. Department of State, *Current Policy 71*, 1985, pp. 1,3). Almost certainly what Akhromeyev's staff had misinterpreted (but with coincidental uncanny premonition) was the reference to an anonymous source in the administration as the author of a Heritage Foundation "backgrounder" of April 4, 1985, which did advance a version of the new, broad interpretation just two months before Akhromeyev's statement.

[7] "Washington's Assertions and the Real Facts," *Pravda*, October 19, 1985.

[8] Marshal S. Sokolov, "Preserve that Which Has Been Achieved in the Field of Limiting Strategic Arms," *Pravda*, November 6, 1985; A. Natal'in, "The Illegality of the U.S. 'Strategic Defense Initiative'," *Soviet State and Law*, no. 11, (November 1985), pp. 113-19; V. Semenov, "The ABM Treaty and SDI," *Pravda*, February 21, 1987, first ed. only; V. Semenov and B. Surikov, "The ABM Treaty—An Obstacle to 'Star Wars'," *Mezhdunarodnayazhizn'*, no. 7, (July 1987), pp. 20-29; V. Karpov, "A Difficult 'Anniversary'" [fifteen years from signature of the ABM Treaty], *Pravda*, May 26, 1987, and "A Formula for Success—Europe without Rockets," *Novoye vremya*, no. 17 (April 24, 1987), pp. 6-7; G. Kornienko, "A Look to the Past for the Sake of the Future," *Novoye vremya*, no. 21 (May 22, 1987), pp. 3-4, and under the pseudonym "K. Georgiyev," "Against Facts and Logic," *Pravda*, October 18, 1986.●

AIR FORCE PROPOSAL TO KILL ASAT WEAPON

● Mr. KERRY. Mr. President, on Friday, the New York Times reported that the Air Force is proposing to abandon the U.S. antisatellite weapon to reduce the budget, and that Secretary of Defense Frank Carlucci is likely to accept its proposal. As a result, the public will save more than $2.5 billion over the next 5 years, a real savings which will translate to a lower budget deficit or the ability to spend the money on programs that do make sense.

Since I arrived in the Senate 3 years ago, I have come to the floor many times to argue that the Asat was an expensive lemon with serious strategic liabilities, and that the United States would be better off negotiating limits on weapons in space with the Soviets, rather than pushing Asat development forward.

Now, primarily as a consequence of budgetary pressures, the Defense Department is recognizing that it has to make choices and that marginal systems cannot be sustained forever, through changing rationales and cost overruns and regardless of strategic or arms control considerations.

I congratulate the Air Force on this proposal, which demonstrates a new realism by the Defense Department, and urge Secretary of Defense Carlucci to follow through on the decision to kill the Asat. The $2.5 billion he will save will start the process of real cuts in military spending that the Defense Department must undertake in the months ahead as move to bring the deficit crisis under control.

Indeed, the Federal deficit crisis has left no room in the budget for weapons we don't need. Americans understand that our national security must not be defined merely by how many weapons we buy, but by the strength of our economy. Unless we act decisively to cut the Federal budget deficit, our economy will continue to weaken, and we will be a less powerful nation as a consequence.

Our Nation would be far stronger today if President Reagan had recognized that the United States could not sustain the biggest military spending spree in the Nation's history and massive tax cuts simultaneously—that eventually something would have to give.

If we had decided at the outset not to spend so much money on redundant and marginal weapons, the Federal budget deficit, and the cuts required in all government spending, including military, would not be so severe now. When I ran for Senate, I said that our Government needed to make choices about such systems. At last, as a result of the budget process beginning to work, we are beginning to do so.

The decision to kill the U.S. Asat is only the second time in recent history that the Defense Department has been willing to accept a decision that a weapon hasn't worked out. The first time was the Divad. In both instances, the decision came only after enormous

sums had been spent on research and development of a weapon that didn't do what it was supposed to do, and which cost more every time you looked at it.

This was evident 18 months ago, when the GAO issued a report concluding that even apart from the arms control objections to the testing of the U.S Asat, the U.S. Asat system had "limited projected operational capability, technical problems, recognized deficiencies in its readiness for production, and face[d] ever escalating costs."

The decision to develop the Asat in the first place was made by the Carter administration for the purpose of developing a bargaining chip in the process of negotiating overall limits on space weapons to eliminate loopholes left by the ABM Treaty. This was the position because our military felt we needed to get a strict legal regime to protect our satellites. In the words of former U.S. Air Force Chief of Staff Gen. Charles A. Gabriel,

> I would rather both sides not have a capability to go to geosynchronous [orbit] with an Asat. In fact, I would like to be able to agree with the Soviets that we not have any Asat's if we could verify it properly. Because we are an open society, we need our space capabilities more than they do.

Unfortunately, the Reagan administration took the position that there was no Asat restriction that would be in the interests of the United States because of our need to be able to shoot down Soviet satellites in time of war.

Yet the trade off of each side having no capabilities to shoot down high altitude satellites would favor the United States. We rely on our satellites for information that is vital to our national defense, from command and control of our military forces to early warning of nuclear attack. Our military forces are far flung: Not only do we have bases around the world, but the preponderance of our nuclear weapons are located beyond our shores. If our satellites become threatened by future improvements in Soviet capabilities, we risk the decapitation of both nuclear and conventional forces, making it difficult for the United States to maintain a credible response to a sneak attack.

The long-term damage to our strategic security from the further development of Asat technologies by both sides outweighs whatever short-term theoretical advantage gained in going ahead with the testing of our current Asat.

In the words of Prof. Donald Hafner of Boston College, an adviser to the SALT delegation and the National Security Counsel in 1977-78:

> The opportunity that the United States now has before it to place constraints upon arms competition in the broad reaches of outer space is ripe but perishable. The Asat technologies currently available to the United States and the Soviet Union are crude but suggestive. Should the momentum of Asat programs increase, it is evident that the two sides will provoke the other into expending billions of dollars, all in preparation for a "Brobdingnagian skeet shoot" from which neither side is likely to derive a net advantage in security.

So the Air Force's announced willingness to kill the United States Asat slows down the Asat race, and I consider that a good thing. But the larger problem of satellite security is not going to go away unless we negotiate further limits on space weapons with the Soviets. Both the United States and the Soviet Union are aggressively researching other forms of Asat's, including directed energy Asat's and without an agreement it is inevitable such weapons will soon be developed, tested, and deployed.

We should renew negotiations with the Soviets on antisatellite weapon constraints. Possibly this new treaty could ban all tests of Asat's against objects in space. Possibly it could be limited to the development of Asat's capable of attacking higher Earth orbits because of verification problems of stopping lower Earth orbit Asat's.

In the meantime, there are alternatives for the United States to protect itself against the threat of Soviet satellites besides an Asat, and I believe we should move aggressively forward with those alternatives.

United States and Soviet satellites use UHF, SHF, and EHF frequencies. These satellites are susceptible to uplink jamming in varying degrees and may be blinded through ground-based directed-energy weapons or high-power radio frequency transmissions. Instead of developing the U.S. Asat, this approach may be a more cost effective and militarily safe method of stopping an enemy satellite from tracking U.S. ships or engaging in other hostile activity during war.

We should also continue the process of improving the survivability features on U.S. satellites. For example, the Navstar Global Positioning System displays the kind of features, available at reasonable cost, that can make attack much more difficult, time consuming, and conspicuous.

Mr. President, I wish to extend my thanks to the 47 other Senators who joined me in voting this year to extend the moratorium of Asat testing and send a message to the administration and the Defense Department about the Asat, making possible the elimination of this marginal program. I ask that the article "Air Force Proposes Abandoning Anti-Satellite Weapon to Reduce Budget" be placed in its entirety in the RECORD.

The article follows:

[From the New York Times, Dec. 18, 1987]

AIR FORCE PROPOSES ABANDONING ANTI-SATELLITE WEAPON TO REDUCE BUDGET

(By Richard Halloran)

WASHINGTON. Dec. 17.—To help cut the Pentagon budget, the Air Force has proposed ending work on a weapon system to destroy Soviet satellites in space, Pentagon officials said today.

The officials said the Air Force saw no sense in continuing the program because for three years Congress has forbidden the Air Force to test the system in space. While Frank C. Carlucci, the Defense Secretary, has not yet made a final decision, the official suggested that the anti-satellite weapon program was dead.

Mr. Carlucci, acting under an agreement reached by the White House and Congress to reduce the Federal deficit, has ordered the armed services to cut about $33 billion from their 1989 budgets so that the Defense Department can meet its obligations.

Killing research and development of the weapon would save about $500 million in the fiscal year 1989, which starts next Oct. 1. Although, the Air Force has been instructed to come up with $8.6 billion in budget cuts.

DEMOCRATS FEAR FOR BALANCE

Each service had until late last week to draft its lists of proposed cuts. This week, leaders of each service have been meeting with the Pentagon's executive committee, the Defense Resources Board, to explain and defend recommended cuts.

The anti-satellite system envisions mounting a precision guided missile on a highpowered F-15 fighter. The fighter would climb to a high altitude and launch the missile into an orbit, where it would collide with the satellite or explode near it. Congressional Democrats opposed the program, asserting that it destabilized the military balance between the United States and the Soviet Union.

The chairman of the House Armed Services Committee, Representative Les Aspin, Democrat of Wisconsin, has been among the leaders of the opposition to the anti-satellite weapon. Another leader is Senator John Kerry, Democrat of Massachusetts.

THE SOVIET ADVANTAGE

It also seemed likely to please the Soviet Union, which has proposed a moratorium on such developments. The Soviet Union has a military space program that is more extensive than that of the United States; anti-satellite weapons would threaten that network in a conflict.

Moscow has also been seeking to develop an anti-satellite system of its own, but is believed to lag behind the United States technically.

For the United States to cancel its anti-satellite system may slow development of President Reagan's plan to deploy a defense against incoming nuclear missiles. Some anti-satellite technology might have been useful in the antimissile program.

In other budget-cutting actions, the Navy has proposed transferring several destroyers to the reserve fleet, where they would require few sailors on active duty and would be operated infrequently by reserve crews. The Navy could thus reduce personnel and operating costs.

At the same time, the Pentagon officials said, the Navy has amended its proposed cuts to come close to its goal, a $11.5 billion reduction. Earlier, the Navy came up short by nearly $1 billion, and James Webb, the Secretary of the Navy, contended that further reductions would lead to unacceptable military risks.

HOLDING PERSONNEL AT A LEVEL

The Navy has also proposed that it hold level the number of people in the ranks,

meaning personnel would not be increased by the 10,000 sailors, as had been planned. Navy officers have long said they needed more people as the American fleet expanded to 600 ships.

The Pentagon officials said the Army had been resisting efforts by the Deputy Secretary of Defense, William Howard Taft 4th, who is acting as chairman of the Defense Resources Board, to reduce the number of soldiers.

Mr. Taft suggested earlier that the Army, which has held its personnel strength constant for seven years, would not be required to make deep cuts. But the Pentagon officials said that did not mean no cuts. The Army, instead, has proposed ending the program to develop a remotely piloted drone to fly over battlefields to spy on enemy forces, relaying information back to a command post through television.

The Army has also recommended reducing its annual procurement of M-1 Abrams tanks and Bradley fighting vehicles, although by how much could not be determined. In 1989, the service planned to buy 600 tanks for $1.6 billion and 618 Bradleys for $714 million.

In a related matter, Donald M. Fredericksen, a senior Defense Department official, told a Congressional committee today that the Army would add armor to the Bradley to make the disputed vehicle "50 percent more survivable" in combat.

Critics have contended that the Bradley could not survive an attack by some Soviet-made missiles. Mr. Fredericksen also said the Army would move the position of ammunition stored aboard the vehicle and redesign the fuel system to protect the crew.●

TRIBUTE TO AMERICAN FOUNDATION FOR THE BLIND

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to the American Foundation for the Blind. Since opening in 1921, the foundation has served as a national partner of local services for blind and visually impaired persons, services for whom the foundation seeks to develop, maintain, and improve.

Today, with headquarters in New York City, the foundation works in cooperation with more than 1,000 agencies, organizations, and schools nationwide. Together, new opportunities in education and rehabilitation are provided to promote independence for hundreds of thousands of blind and visually impaired persons in the United States.

To fulfill its mandate, AFB offers regional and national consultants on matters ranging from early childhood development and rehabilitation to employment and communications technology. A myriad of publications are available and messages on radio and television are aired to promote public awareness. Local, regional, and national seminars are conducted, including the annual Helen Keller Seminar held in New York City. At the national level, through its Government relations office in the Nation's Capital, AFB consults on legislative issues and represents the foundation before Congress and Government agencies.

A recent development at AFB occurred in January 1986 when the National Technology Center was opened at AFB's New York City headquarters. The center was designed to help meet the specific needs of blind and visually impaired persons in our highly complex technological environment. For their greater independence at home, school, or work, the center has begun an ongoing technological investigation into the development of mobility aids, home-use medical monitoring devices, and general adaptive equipment that help meet the same day-to-day needs as those of sighted people. Consider, for example, computer systems that speak and display information in large print; talking cash registers, calculators, thermometers, and clocks; and paperless braille tactile graphics displays. These include some of the innovative alternatives under evaluation and development at the Center.

The American Foundation for the Blind is always looking for new and better ways to help the blind and visually impaired, made possible by the philanthropy of the general public, corporations, foundations, and governmental grants. IBM recently received AFB's third annual "Corporation of the Year Award" in recognition of the company's commitment to national programs and services for blind and visually impaired persons. John F. Akers, chairman of the board of the IBM accepted the award.

IBM also received the second annual Leadership Award of the Dole Foundation, an organization deeply committed to furthering employment for individuals with all kinds of disabilities. The American people, corporate America, private organizations, and the Federal Government are joined in the belief that people with disabilities are an integral segment of our Nation's work force.

Led by chairman AFB, John S. Crowley, and executive director, William F. Gallagher, AFB's staff, national trustees, and regional advisory boards are to be commended for their dedication and service.

I am pleased to recognize the American Foundation for the Blind. We in Congress, and indeed the American people, are proud of its many accomplishments. I encourage the foundation to keep up the good work.

Thank you, Mr. President.●

RECOGNIZING THE KNOGO CORP.

● Mr. D'AMATO. Mr. President, I rise today to pay special recognition to one company that has grown from a one-man shop to an international leader in the $200 million a year electronic article surveillance industry—the Knogo Corp. on Hauppaugue, Long Island. Knogo is the founder and leader in manufacturing, marketing, and servicing antishoplifting devices to retailers around the world.

In 1966, an inventor tinkering in his Queens' garage pioneered the entire worldwide electronic article surveillance [EAS] industry with the invention of the first radio frequency "wafer." This system was designed to deter and detect shoplifting at the retail level. All of Knogo's antitheft systems work on the same principle: Merchandise is targeted so that, when it passes through Knogo's exit monitor panels in an unauthorized fashion, signals will alert store personnel.

From the humblest beginnings, Knogo has grown by leaps and bounds due to the direction of Arthur J. Minasy, president of Knogo Corp. For 21 years the company has been at the forefront of the EAS industry and providing retailer institutions with the best state-of-the-art technology available.

Knogo is moving with the times and perfecting new ideas. Some of its other systems protect mentally confused patients from straying away from nursing homes, protect works of art in museums, scrub suits and other linens in hospitals, and books and periodicals in libraries.

Knogo has a proven record of success. It experienced a 25-percent increase in revenue last year and is currently in the process of building a 68,000-square-foot facility in Hauppaugue, Long Island. Knogo's leadership in the EAS industry and the new business and employment opportunities it has provided my fellow Long Islanders are just a few of its accomplishments. I am proud of Knogo's progress and extend my congratulations on 21 years of excellence.

Thank you, Mr. President.●

SKATING SKILLS OF MARY DOCTER

● Mr. KASTEN. Mr. President, while we may seem to be skating on thin ice in compiling these mammoth budget and tax bills, I'd like to draw my colleagues attention to the solid skating skills of one of my constituents.

Mary Docter of Madison, WI, has shown remarkable pluck and determination in winning a place for herself on the U.S. Winter Olympic Team. We here in Congress would do well to emulate her perseverance.

Her story is told in an article from the Washington Post of December 21. I ask that it be entered in the RECORD.

DOCTER SKATES TO BERTH ON U.S. OLYMPIC TEAM—RUSHED COMEBACK RESULTS IN SURPRISE WIN

(By Angus Phillips)

WEST ALLIS, WIS., Dec. 20.—Take heart, couch potatoes. You, too, will be represented at the Winter Olympics.

This weekend, in an upset that left her almost as baffled as it did the rest of the speed skating community, Mary Docter, 26,

beer and cheesecake queen of Madison, Wis., won a place on the U.S. team. Not just a place either; she proved to be the top women's 3,000-meter and 5,000-meter performer at the Olympic trials here.

This is the Mary Docter who, after finishing sixth in the 1984 Olympics in Sarajevo, Yugoslavia, sold her equipment and vowed never to speed skate again, "unless I have a complete personality change."

Docter moved back to Madison went to the University of Wisconsin, ate too much, drank beer, gained weight, speed-skated not a whit and found herself on graduation last May jobless and without prospects.

She took up waitressing part-time at the Ovens of Brittany, where her cheesecake obsession flowered, she said, until the day before Halloween, when a patron scolded her. Docter recounted their fateful chat:

Customer: "Why aren't you skating?"

Docter: "It's out of my life."

"You must be talented."

"It's a lot of work."

"When are the Olympics?"

"Three or four months."

"What would it take?"

"Look, you're stirring a lot of feelings in me that I don't want."

But Docter said she quickly realized "I needed the sport. I wasn't doing anything with my life. I was going out every night, drinking loads of beer and smoking. I was in a rut."

So she intensified the occasional gym workouts she'd been doing, went roller skating on off hours and, when the Madison ice rink opened four weeks ago, strapped on a pair of speed skates for the first time in almost four years.

Entry fee for the Olympic trials here was $10. She watched some of the Olympic hopefuls "and I thought to myself, 'I think I can beat those chicks.'"

In her first race Dec. 13, Docter was second to the top U.S. 3,000-meter skater, Leslie Bader. This weekend she beat Bader by three seconds to become the top U.S. prospect at that distance, then easily won the 5,000-meter trials tonight.

"It makes all of us who trained hard just sick," said Angela Zuckerman, who lost her place on the team because of Docter. "It hurts. The only thing we can think is, she's rested."

Said Bader: "It's amazing, after such a long time. I'm happy for her, but it's hard, deep down. I did all this training and here she just blew me away."

Even Docter conceded it is "a little insulting to the women's distance program."

Coach Mike Crowe initially was distressed that someone without hard training, "skating half-throttle," as he put it, would wind up his best prospect for a medal at 3,000 meters against a strong East German women's contingent.

But this weekend he mellowed. "She definitely belongs on the team," he said after her defeat of Bader in a cold rain Saturday night. "She was far and away better than anyone else [at 3,000 meters]."

Crowe said he suspects Docter has been working out in the gym more than she admits to. But he said he hadn't talked with her during the trials. "I hadn't coached her, so I didn't know if it was my place." Now that she's on the team, he said he'd work with her, which Docter said she'd welcome.

For her part, Docter is both euphoric and bewildered.

"I don't know what's going to happen," said the frizzy-haired veteran of two Olympics. "I'm ready to train hard. I'm excited to come down here and skate."

She said 1984 was a bitter disappointment she wouldn't want to repeat.

After seven years of training, she said, "I didn't get what I trained for. I had great potential, but when the time came I was a mental, physical and emotional wreck. I was eating to much baklava and not sleeping. I couldn't maintain my mental status; my attitude was bad."

Now, she says, "Speed skating is just what I need to get out of my rut. It's the most exciting thing I've ever done."

Nor does she expect to get so wound up that she collapses at Calgary the way she did at Sarajevo. She's approaching this one very differently.

Will 1988 be Mary Docter's revenge?

"No," she said with an ear-to-ear grin, "it will be Mary's vacation."

Although Docter is a long-distance specialist, the top U.S. medal prospects all compete in shorter, sprint distance of 500, 1,000 and 1,500 meters.

The only major surprise of the trials in those distances was three-time Olympian Nancy Swider-Peltz's victory tonight in the 1,000 meters. Like Docter, Swider-Peltz, 31, wasn't planning to compete this year. She had her first child in January and couldn't train until September. By winning tonight, she becomes the first U.S. four-time speed skating Olympian.

In other sprint team selections, women's champion Bonnie Blair and the top men, world record holder Nicky Thometz and Dan Jansen, made the team easily. Thometz was ill and didn't race the 500, but has a designated spot as world-record holder at that distance. Jansen and Blair led the pack in the 500 trials, and Jansen also won the 1,000.

The team:

WOMEN

Bonnie Blair, Champaign, Ill.; Katie Class, St. Paul, Minn.; Leslie Bader, Bridgeport, Conn.; Mary Docter, Madison, Wis.; Kristen Talbot, Schulyerville, N.Y.; Peggy Classen, Roseville, Minn.; Jan Goldman, Glenview, Ill; Nancy Swider-Peltz, Park Ridge, Ill.

MEN

Nick Thometz, Minnetonka, Minn.; Dan Jansen, West Allis, Wis.; Erik Henrikson, Champaign, Ill.; Eric Flaim, Pembroke, Mass.; Dave Silk, Butte, Mont.; Marty Pierce, St. Francis, Wis.; Tom Cushman, St. Paul, Minn.; John Baskfield, Roseville, Minn.; Dave Cruickshank, Northbrook, Ill.; Mark Greenfield, Park Ridge, Ill.; Jeff Klaiber, Glenview, Ill.; Brian Waneck, Mequon, Wis.●

TEXTILE INDUSTRY

● Mr. BOSCHWITZ. Mr. President, I rise today to share with my colleagues two articles, regarding the textile industry. The first, "The Great Textile Robbery," appeared in the New York Times. The second, "Sun Finally Setting on Garment Industry," was printed in the China News. They were brought to my attention by a close friend and leader in the retail industry, Mr. Leslie H. Wexner. Les Wexner is the president and chairman of The Limited, Inc., the largest retailer of women's clothing in the world.

According to these articles, it is estimated that the U.S. textile industry employs 1.8 million workers. Although our domestic industry is diminishing in size, it remains profitable, with income of over $100 billion a year. At this time, U.S. plants are operating close to capacity without large amounts of new investment capital. Furthermore, foreign clothing imports account for only about 30 percent of the American market. In fact, in recent years the industry has experienced increased domestic sales. U.S. buyers have reduced their relliance on foreign manufacturers and are turning to American manufacturers to meet their requirements.

Those in favor of more protection for textiles here in the United States claim that the American textile industry is losing money and no longer able to compete with foreign manufacturers. They promote increased reliance on quotas and tariffs in order to remain competitive.

Frankly, I disagree with this approach. Every year legislation is introduced to protect textile-related jobs. I'm concerned that the only result is to increase clothing costs by $20 million a year. Quite frankly, protecting the textile industry is a vicious circle. Protectionist measures cause clothing costs to rise and domestic sales to fall, hurting the domestic textile industry and putting people out of work.

Mr. President, I ask that both articles be printed in the RECORD and I encourage my colleagues to read them.

The articles follow:

[From the New York Times, Oct. 26, 1987]

THE GREAT TEXTILE ROBBERY

It's already an outrage: Quotas and tariffs raise clothing and textile prices in America by a whopping $20 billion a year. That means the public currently pays $86,000 for every job protected.

Now Congress wants to make it worse. Last month, the House voted to allow imports to rise by only a small fraction of the expected growth in demand, and the Senate is expected to go along. According to estimates by William Cline, a researcher at the Institute for International Economics, the added restrictions would double the current consumer cost by the year 2000. The only consolation is that the bill is certain to be vetoed by President Reagan.

The protectionists' case is simple. Apparel and cloth manufacturers employ 1.8 million and generate some $100 billion in income. If imports aren't tightly checked, the industry says, American producers will be unable to compete with foreign companies that pay pennies a day for workers. Even the best-run domestic manufacturers will fail, devastating families and communities.

It's a simple argument but it's disingenuous. In spite of their labor cost disadvantage, highly automated U.S. textile mills have remained competitive in world markets. The mills are currently operating close to capacity, and imports account for only 10 percent of domestic consumption.

Apparel manufacturers, who have invested very little in mechanization, have been pressed by imports. But foreign clothing still has only 30 percent of the American market. And thanks to rapid growth in total demand, domestic sales and profits have never been higher.

The House measure, restricting import growth to 1 percent annually, would check the slow decline in industry employment—but only at an incredible price to consumers. According to Mr. Cline, each of the 179,000 jobs saved would 10 years later add even more to Americans' clothing bills. And seen simply as a make-work program, it's far from clear that those jobs would be worth preserving at any price.

Apparel and textile wages average less than $7 an hour, $2 less than the average private sector wage. Moreover, with unemployment now below 6 percent and labor shortages forecast for the next decade, there is every reason to believe that workers laid off by the industry will be able to find jobs at comparable pay.

A plausible argument can be made for preventing high-tech industries from being overwhelmed by imports. Reasonable people can debate the merits of creating an effective safety net for workers and communities affected if any large employers collapse. But there is no basis for asking Americans to pay tens of billions more to save a relatively small number of poorly paid jobs in highly profitable industries.

Congressional eagerness to pander to the textile and apparel makers is sad evidence of the power of well-organized, big-money lobbying. It's hard to remember when legislation so richly deserved a veto.

[From the China News, Nov. 9, 1987]

SUN FINALLY SETTING ON GARMENT INDUSTRY

The garment industry is about to enter the Dark Ages. Industry sources say total future orders and unit prices are looking "pessimistic."

The industry has forecast a shrinking business volume ever since the NT dollar began to rise against the U.S. dollar last year. Yesterday, industry representatives said the Dark Ages are finally coming.

The most convincing evidence for the grim future, they said, is that export orders received for between April and June next year are only 30 percent of the actual export amount for this year.

The buying will of the American public has diminished with the instability of the stock market, a spokesman of the Garment Maker's Association said.

Buyers from the United States either are buying less or are simply turning their backs on local manufacturers after hearing price quotations on routine visits to Taipei.

Price is another factor causing the industry to recede. Knit wear makers complain they used to sell by the piece. Now, they are requested to quote prices by the dozen.

In view of the bleak outlook, many garment makers are seriously considering transferring factories to the Philippines and Indonesia where labor is cheaper and quota restrictions are less tight.

According to a survey made by the Garment Makers' Association on export orders for the coming six months, shirt makers stand out as they claim to have received orders equivalent to 70 percent of last year's orders. Makers of jackets, one-piece garments, trousers and wind breakers are reporting 40 percent to 50 percent of orders compared to the same period last year.●

OLD MAIN—A SUCCESS STORY

● Mr. BOSCHWITZ. Mr. President, I rise today to share with my fellow Senators a tale of success about a building called "Old Main" in Mankato, MN, from an article in the "Minnesota Real Estate Journal." The Federal Government is often criticized—many times deservedly—for dragging its feet on important decisions. But the story I'd like to share is one of prompt action and cooperation.

"Old Main," which was placed on the National Register in 1983, is the last remnant of the old Mankato State Teachers College. It was built in 1923–24 and is a fine example of the academic style of architecture. Now "Old Main" is being renovated to provide 85 units of senior housing.

I was proud to be at the ground breaking some time ago.

Curt Fisher, of Fisher Commercial Real Estate in Mankato, together with many others, was a leader in the fight to save this building from the wrecking ball. Curt recognized the needs of the community, particularly the need for senior housing, and worked hard with the citizens of Mankato to make the vision a reality. The city of Mankato pitched in by purchasing the building from a developer using proceeds from a tax increment financing (TIF) district, and then selling it to the nonprofit Senior Development Corp.

But it wasn't easy going. Provisions of the Tax Reform Act of 1986, which was signed into law while financing and planning of the renovation was still being worked out, could well have stopped the project. The cut in the historic preservation tax credit from 25 to 20 percent, as well as the limitation on passive losses for partnerships, could have killed the project. I went to work and obtained an amendment to the Tax Reform Act exempting the project and putting it back on track.

I think the story of the renovation of "Old Main," which will be completed by next May, is a fitting example of the benefits of cooperation between private investors, and local, State and Federal Governments. "Old Main" will provide much needed housing for seniors, while preserving the historic heritage of Mankato.●

CHILD CARE SERVICES IMPROVEMENT ACT

● Mr. DURENBERGER. Mr. President, I am pleased to join my colleague from Utah, Senator HATCH, in supporting S. 1678, the Child Care Services Improvement Act of 1987, a bill that addresses one of the fastest growing problems that our Nation faces. The need for quality child care in this country far outstrips the supply, a reality that all parents of young children struggle with on a daily basis. The poor face the double problem of supply and affordability leading them to take the chances that sometimes result in neglect and tragedy.

Moderate income families often deal with the continuing stress of maintaining adequate child care and also seeing most of their net income going to pay for child care that is less than satisfactory. For all, child care is a constant hassle which affects their work productivity and their mental health which in turn may further affect the quality of time they spend with their children.

Child care has become a national issue for many reasons but the simplest and most obvious is that the number of women who work outside the home as well as in the home has grown dramatically. Simultaneously the number of women in childbearing years has grown. So demand for child care facilities and programs has increased proportionately. The need for quality child care will be with us for many years, so we must move quickly. Already half of all married mothers with infants younger than 1 year are in the work force—a 108 percent increase. By 1995, two-thirds of all preschool children will have mothers in the work force.

Quite literally, the Nation's most precious resource, its children, are being put at risk without safe, mentally and physically nurturing environments. Just as the Nation once long ago determined that public education was something that society and the community should ensure, it is clear that with changing work patterns for women and men, it is in the interests of the Nation to make certain that children are given the right developmental start in life. For later elementary education, there is also evidence among large numbers of disadvantaged children, some of which are growing up homeless, that quality day care gives them a better chance in life—just as Operation Headstart did beginning in the Mid 1960's. In fact, good day care for children in poverty can be an opportunity to partially compensate for cognitive deficits in their environment, nutritional inadequacies in the home, and the absence of health care (especially preventive health care.)

As a nation, we must make this investment in our children. Of today's children, who will make up our future labor force, according to the Children's Defense Fund:

One in four is poor.

One in three is nonwithe, and, of these, 40 percent are poor.

One in five is at risk of becoming a teen parent.

One in seven is at risk of being a drop-out.

There is evidence that preschool and other programs can help low-income children (who often have many barriers to overcome) succeed in school.

Government cannot and should not be the main source of child care, or of

its financing. Even if the Nation were not facing large Federal deficits and a crushing national debt that could be left to these same children, parents must contribute to their children's care according to their ability to pay. They have the greatest stake in the care because they are the parents. Parents must remain responsible for ensuring quality care and proper early development. But, it is clear that governments at all levels have roles to play in quality assurance, consumer information and protection, assistance with the vexing liability insurance problem, and as financial catalysts for demonstrations, and significant sources of funds for State programs, and extra assistance to low-income families. Like education, child care is most appropriately a State and local responsibility but the Federal Government can and should help. Parents, concerned citizens, educators, organizations and Government agencies have important distinctive interests and roles and all will need to work together to protect our young people. Moreover, we want to maximize the opportunities for choice—choice of kinds of child care, choice of mixture of financing and choice of governance. But without adequate supply of child care options, there is no real choice. We must stimulate supply expansion and enhance choice for all Americans.

In addition to the broad need for good day care, it is obvious that welfare reform will flounder if we do not move ahead to increase the supply of day care for the young women and men who must get an education or work training to get jobs or need day care to even get the chance to develop a solid work history.

The lack of affordable, decent day care could make a mockery of all of our efforts to develop independence, to provide good training and open the door to economic opportunities. If middle-income mothers with cars and adequate though not lavish salaries have the constant battles with sitters and child care that this Senator hears about, imagine what it must be like with all of the strikes against them that many young mothers on AFDC face. In an excellent project in Hennepin County, in which AFDC mothers are given intensive services to help them cope, many of the welfare recipients barely make it on a daily basis for so many factors that drag them down, including lack of child care and transportation.

Neither this bill nor others that deserve support, such as Senator DODD's "New School Childcare Demonstration Projects Act of 1987" which I also am cosponsoring, will solve all of the child care supply problems that we will face in the next 5 years, but both bills are important, thoughtful steps that must be taken as soon as possible. A year or even 3 years is not long in Congress or for any of us as older adults—indeed the years seem to move much too swiftly—but even a year is a critical period in the development of a child. We cannot let that valuable time for shaping a child be wasted or allow children to have their development stunted or twisted. We must move quickly. I urge my colleagues to join me in working with Senator HATCH to bring this bill to final passage.●

AFTER INF: THE NATO DEFENSE INITIATIVE

● Mr. QUAYLE. Mr. President, the benefits of the INF agreement are clear: For the first time the United States and the Soviet Union will actually be eliminating an entire class of nuclear weapons systems. This is why the treaty and its ratification are virtually irresistable.

What's not so well understood, however, is how the elimination of NATO's INF missiles will further undermine NATO's strategy of flexible response and how NATO must now take prudent action to revitalize its defenses. In fact, NATO's strategy is at a crossroads. Either NATO will correct the deficiencies that destruction of its INF missiles will compound or it will let its strategy of flexible response deteriorate until NATO comes undone.

Today I intend to clarify this crisis and propose a 5- to 15-year package of NATO-coordinated programs—the NATO Defense Initiative [NDI]—that can address these problems without bankrupting either us or our allies. I have spoken to the administration about this initiative and believe they should support it either by including all or part of it in the fiscal year 1989 Defense budget or, if this is not possible, by presenting it in the form of a supplemental request prior to the INF Treaty's ratification.

Before I detail the specifics of the NDI package, though, I think it's necessary to clarify the problem it's intended to address—the deterioration of NATO's strategy of flexible response.

This strategy of flexible response has three components:

First, direct or forward conventional defenses to check an initial Soviet conventional assault; second, deliberate escalation with tactical and theater nuclear weapons to deter Warsaw Pact use of nuclear weapons and to block any Pact breakthroughs against NATO's forward conventional defenses; and, third, general nuclear response with theater or strategic nuclear weapons to deter any further aggression by credibly threatening to initiate a nuclear strike against the Soviet Union itself.

Clearly, the last component is the one most directly affected by the elimination of NATO's INF missiles. NATO still has its dual-capable aircraft to deliver nuclear weapons but these are located on only a handful of bases that are becoming increasingly vulnerable to nonnuclear missile and air attacks. These planes also are themselves increasingly vulnerable to Warsaw Pact air defenses.

As for United States nuclear forces based outside of Europe, NATO and the Soviets have every reason to doubt that these forces would be used particularly if the Soviets were winning a limited conventional war against only one or two of NATO's members. Nor is clear that NATO's shorter range battlefield nuclear weapons would be used to block conventional Pact breakthroughs.

Here again, the reason is tied to the capabilities surrendered under INF. NATO's ground-launched cruise missiles and Pershing II's and I's, after all, were also deployed to address the vulnerability, lack of range, and increasing obsolence of NATO's battlefield nuclear forces dual-capable artillery and Lance missile batteries.

The key difficulty with these systems is their lack of range. None of them can shoot much beyond 50 miles and most cannot reach beyond 25 miles. Because they are deployed near the battlefront, they are vulnerable to being overrun in a Soviet assault. Yet, if they are used, they are will be targeted against Soviet units operating within NATO territory—a prospect that argues against these weapons' use.

This finally brings us to NATO's forward or direct conventional defenses, whose own viability turns on the vitality of the other two components of NATO's strategy. Here the credible threat of direct escalation with battlefield and short-range nuclear weapons, is not just desirable for forward defense, it's a prerequisite.

First, it is the credible threat of nuclear escalation that prevents the Pact from concentrating its conventional ground forces in the easiest fashion to launch an attack. The Soviets understand that if they mass their conventional ground forces to achieve a favorable ratio of forces against NATO, they also create a lucrative target that can easily be wiped out with a fairly discriminate, low risk NATO nuclear strike.

Take away the credibility of NATO's threat to target Soviet forces with nuclear weapons, though, and you give the Soviets every incentive to mass their conventional forces as they did so successfully in World War II. In short, you eliminate any hope of being able to deter or win against the pact conventionally.

This is true even if you are somehow able to get the Soviets to agree to reduce to NATO conventional force levels. Again, if the enemy can concentrate his forces at will, he will have an

offensive advantage. Thus, in 1940 Hitler was able to prevail against nearly equal French forces despite superior French armor and extensive prepared French defenses.

The point is even more telling in the Soviets' case since as a land power it has the advantage of being able to use interior lines of communication to reinforce its armies whereas the alliance depends on United States forces located an ocean away. While the United States must struggle to introduce additional divisions into Europe from across the Atlantic, the Soviets can move two divisions a day to Western Europe over seven or more East European rail lines.

Even NATO's Follow-on Forces Attack [FOFA] concept, which we are now promoting, assumes NATO's nuclear threat is credible enough to force Pact forces to be dispersed in waves or echelons. The aim of FOFA is to delay or disrupt these echelons' movement toward the battle front sufficiently to stave off an attack or at least to prevent the Soviets from capitalizing on any initial successes against NATO's forward defenses. Remove the credibility of NATO's battlefield nuclear forces and FOFA, even if fully funded, falls as well.

Second, and finally, without modern nuclear forces effective and survivable enough to threaten a credible deliberate nuclear escalation, NATO would be unable to deter pact offensive nuclear assaults. This would only further seal the fate of NATO's conventional forces.

This, then, brings us to what needs to be done and the detail of the three efforts proposed under the NATO Defense Initiative. First, NATO must increase the credibility of its nuclear forces not by increasing their number but by modernizing what it has. Second, NATO must strengthen its forward conventional forces by protecting its air assets against pact air and missile attacks and by giving its ground forces greater battle depth and resilience through longer range improved battlefield fire support. Third, NATO must base its flexible response more on conventional missiles of various ranges than on nuclear weapons of any sort.

NUCLEAR MODERNIZATION

Although each of the efforts independently will strengthen one or another specific components of NATO's strategy, modernizing its nuclear arsenal is critical directly or indirectly to all three components.

What specifically needs to be done to modernize NATO's nuclear weapons? At least four things: First, NATO's nuclear artillery needs to be upgraded with shells of increased accuracy and range. NATO has many 8-inch and 155mm artillery tubes already deployed. Recent advances in electrothermal technology suggest that we could soon have shells that could increase NATO's artillery range severalfold.

This would allow NATO to move these artillery units further back in less vulnerable positions than where they are currently deployed. Also, with extended range, NATO artillery will be able to concentrate its fire easier. This, in turn, should reduce the need for nuclear shells.

Second, NATO needs to develop and deploy a longer range follow-on to the now obsolete Lance ground-launched nuclear missile system. This replacement should extend close to the very edge of the INF range limits—499 kilometers—and should be made dual-capable. This later characteristic should increase the weapon's value in conventional conflict and again reduce the need for more nuclear shells—if the Soviets are faced with many dual capable missiles, NATO does not need to deploy as many nuclear shells to assure their survivability.

Third, NATO needs to make whatever dual-capable aircraft it has more survivable on the ground and against Warsaw Pact air defenses.

Finally and related to the previous point, NATO needs to replace its nuclear gravity bombs with air-to-surface nuclear standoff missiles that will increase the survivability of its dual-capable aircraft by allowing these planes to deliver their weapons without having to fly over the target's air defenses.

Each of these efforts when taken in conjunction to reassigning existing United States strategic nuclear warheads to NATO missions will go a long way to keep its overall strategy intact. It will not, however, take the place of additional conventional improvements. The reason why is simple: the Soviets have theater nuclear weapons too. Unlike the 1950's when NATO had a relative monopoly in theater nuclear weapons, NATO can no longer plan to use nuclear weapons to block a Soviet conventional success without bringing on a more devastating nuclear response within Europe.

Nuclear weapons will still be useful. They can help couple NATO's defense to a strategic nuclear exchange between the United States and the Soviet Union. They can assure that the Warsaw Pact will not risk concentrating their conventional forces as they did in offensives during the Second World War. And they can help deter Soviet use of nuclear weapons against NATO.

They can do all these things. But they can do no more. If NATO wishes to prevent the pact from breaking though NATO's forward defenses, it must strengthen its forward defenses conventionally. Similarly, if NATO wishes to deter or stop persistent Pact offensives without dragging the alliance into a nuclear strategic exchange between the United States and the Soviet Union, it can no longer count on nuclear weapons, but must develop a conventional flexible response to do the job.

STRENGTHENING NATO'S FORWARD DEFENSES

What does this mean in specific? To strengthen NATO's conventional forward defenses at least three specific efforts are required. First, NATO must improve its passive ground defenses to absorb the shock of an intitial pact ground assault. Work that has now begun to develop pre-prepared terrain enhancements and barriers must continue. This can help slow and channel initial Pact armor attacks.

Second, NATO must deploy relatively deep battlefield weapons that can rapidly and precisely place mine fields to block further Soviet armor and advances and mass firepower to help keep these advances blocked. Also, by at least doubling or tripling the range of such fire units, NATO will be able to double or triple the battle depth in which NATO forward defense units are deployed. This, in turn, should increase the resiliency of NATO's forward defenses by giving them more room to manuever and counter atttack against a focused pact assault.

The weapons in question would include munitions compatible with systems such as the Multiple Launch Rocket System, which is now being deployed; ATACM missiles now under production; JTACM missiles that soon will be deployed; shorter range modular standoff weapons, a NATO cooperative cruise missile that could soon go into production; dual-capable aircraft; smart extended range artillery shells; and the like.

Third, NATO must extend defense of its air assets, which ultimately are dedicated to supporting NATO's efforts on the ground. Currently, our air fields, air defense batteries, and air control centers lack adequate defenses against nonnuclear pact air forces and tactical missiles such as the SCUD and the SS-21. If NATO allow this vulnerability to continue to grow, it will have to plan on losing control of the air, which, in turn, would make any conventional defense of Europe impossible.

In the near-term NATO must address this concern with improved passive defenses such as hardening and decoys to protect both our airplanes and air defense units. It also must upgrade existing Patriot and Hawk air defense batteries and begin work in earnest on an active low-cost antitactical missile defense.

In the longer term, NATO will have to deploy an extended air defense system capable of coping not only with low-flying cruise missiles, but tactically ballistic missiles as well. It also must consider how it might reduce its reliance on airplanes by assigning un-

manned systems for certain air defense and air interdiction missions.

DEPLOYING A FLEXIBLE CONVENTIONAL RESPONSE

NATO's direct or forward defense, of course, will only be as good as its backup. As noted before, NATO's current strategy is to back its forward defense forces with the threat of deliberate nuclear escalation, a threat that is no longer very credible. The answer to this problem is not to build more nuclear weapons but rather to develop a flexible conventional response that will allow NATO to halt a Soviet attack without destroying the territory NATO is trying to defend.

In specific, NATO must deploy nonnuclear cruise missiles launched from the air, sea, and land to strike deep against pact airfields, air defense units, command and control bunkers, train transloading spots, nuclear depots, and military transport choke points such as tunnels, bridges, and train lines and to jam and confound pact command, control and communications. The focus here would not be on moving targets, such as armor, but rather on the fixed assets these moving targets depend upon to get where they want to go.

The missiles NATO would need to do this job could carry chemical warheads, electronic jammers, antiradiation homing devices, scatterable mines, earth penetrating warheads, fuel air explosives, antiarmor munitions, runway busters, or other improved conventional payloads. They would have ranges of at least 100 kilometers and go beyond 1,000 kilometers. They would include, longer range modual stand off weapons, existing and improved conventional Tomahawk land attack missiles [TLAM-C's], conventional air launched cruise missiles [ALCM-C's], antiradiation missiles such as Tacit Rainbow, remotely piloted drones for surveillance and antiradar missions [RPV's], a dual-capable Lance surface-to-surface missile follow-on and the like.

To make sure that these missiles arrived on target on time in the right number, NATO would also have to develop and adapt its command, control, communication and intelligence network to take on this task.

COSTS AND COOPERATION

None of these upgrades will be free. It would be a mistake, however, to assume that they will bankrupt the alliance particularly when it is understood that the costs of the NDI will be spread over a 15-year period. The most expensive component of the NDI package—the deployment of a conventional flexible response capability and the forward defense improvements—could be done for no more than 5 percent of what NATO will spend on its defense over the next 15 years—$75 billion—and would in all likelihood cost much less.

As for the nuclear modernization, these were already agreed to in principle by NATO at Montebello in 1983. Moreover, savings that might be achieved by pulling out our INF missiles could be used to cover these costs.

Given the importance of these improvements, it may be necessary to cover these costs by cutting other less critical accounts or by making modest increases in defense spending, which is now declining. In any case, they ought not to be made without burden sharing within the alliance. The United States ought to fence money for a good number of the NDI buys pending NATO nations' willingness to chip in.

What should the specifics of such burden sharing be for these off-the shelf or nearly developed weapons systems? How many of what weapons within the NDI package should be bought when? In the first instance, not Congress but rather our Secretary of Defense should supply the answers. In a sense he is already bound to do this in at least two places: The upcoming annual Defense Department report, which must consider NATO's security requirements and in the Defense authorization report on requirements for maintaining NATO's strategy of deterrence requested by myself and the majority leader, which is due when the INF Treaty is submitted to Congress.

With the Secretary's recommendations before us, Congress could cooperate in offering its own suggestions and revisions. One way or another, however, a package of NDI programs will be recommended.

I believe the package I have presented is the one that is needed to revitalize the alliance. It will make NATO's strategy of flexible response reasonable again and yet reduce NATO's reliance on nuclear weapons. It will reduce the likelihood of a pact breakthrough of NATO's forward defenses and make it possible to disrupt any breakthrough without having to resort to nuclear weapons. Finally, by modernizing and integrating NATO's nuclear weapons with its conventional forces to assure continued dispersion of pact conventional forces, it should make any conventional arms control effort less risky than it otherwise might be.

Mr. President, I believe if we are serious about our defense after the INF Treaty and about moving away from so heavy a reliance on nuclear weapons, the NDI is the proper course to take. Indeed, in the end, the costs of taking any course would only be higher, and could easily cost us our alliance as well. Certainly, without the improvements I have outlined, the INF Treaty could easily prove to be a liability rather than a boom to NATO's security.●

FIRST SESSION—100TH CONGRESS

SENATE ACCOMPLISHMENTS, PUBLIC LAWS ENACTED, VETOED BILLS, AND DIGEST OF LEGISLATIVE ACTIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the following materials detailing Senate accomplishments, public laws enacted, vetoed bills, and a digest of legislative actions of the Senate during the first session of the 100th Congress be made a part of the RECORD.

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

SENATE ACCOMPLISHMENTS—100TH CONGRESS, FIRST SESSION

MAJOR PUBLIC LAWS ENACTED

H.R. 1, Clean Water (veto overridden), PL 100-4, without approval.

H.J. Res. 102, Emergency Food and Shelter Supplemental/Federal Pay Disapproval, PL 100-6.

H.J. Res. 153, Asbestos School Hazard Abatement, PL 100-11.

S. 83, Energy Standards for Applicances, PL 100-12.

H.R. 2, Federal Aid Highway Authorization (veto overridden), PL 100-17, without approval.

H.R. 1983, Surface Mining Control and Reclamation, PL 100-34.

H.R. 1941 (S. 85), Power Plant and Industrial Fuel Use, PL 100-42.

S. 1177, Thrift Savings Fund Investment Procedures, PL 100-43.

H.R. 1157, Wheat Acreage Diversion and Disaster Assistance, PL 100-45.

H.R. 1085, New GI Bill Continuation, PL 100-48.

H.R. 1827, Supplemental Appropriations, FY 1987, PL 100-71.

H.R. 558, Homeless Relief Act, PL 100-77.

H.R. 27 (S. 790), Federal Savings and Loan Insurance Corporation Recapitalization, PL 100-86.

H.R. 1444, Medicare and Medicaid Patient and Program Protection, PL 100-93.

S. 769, Minority Health Education and Care, PL 100-97.

S. 1596, Child Abuse and Neglect Assistance Extension, PL 100-117.

H.J. Res. 324, Public Debt Limit Increase, PL 100-119.

H.R. 1744, Historic Preservation Fund Three-Year Extension, PL 100-127.

S. 1417, Developmental Disabilities Assistance, PL 100-146.

H.R. 2782, NASA Authorization, PL 100-147.

H.R. 317, Wild and Scenic Rivers Act, PL 100-149.

H.R. 1451, Older Americans Act Amendments, PL 100-175.

H.R. 2112, Intelligence Authorization, FY 1988-89, PL 100-178.

H.R. 1748, DOD Authorization, FY 1988, PL 100-180.

H.R. 2939, Independent Counsel Reauthorization, PL 100-191.

H.R. 2689, Arms Control and Disarmament Agency Authorization, PL 100- .

H.R. 1777, Department of State Authorization, PL 100- .

H.R. 2310, Airport and Airway Capacity Expansion Act, PL 100- .

H.R. 2974, Military Retirement Reform Amendments. PL 100- .

H.R. 2945, Veterans' Compensation COLA Adjustment. PL 100- .

H.R. 3030, Farm Credit Act, PL 100– .
H.R. 1340, Feeding Programs Distribution Reform, PL 100– .
H.R. 3674, U.S.-Japan Fishery and Marine Pollution Agreement PL 100– .
H.R. 3545, Budget Reconciliation, PL 100– .
H.J. Res. 395, Continuing Resolution, FY 1988, PL 100– .
S. 825, Housing Authorization, PL 100– .
H. Con. Res. 93, Congressional Budget Resolution. Action completed, does not require President's signature.

BILLS IN CONFERENCE

H.R. 3, Omnibus Trade and Competitiveness Act.
S. 677, FTC Authorization.
S. 1174, DOD Authorization, FY 1988.
S. 864, Military Procurement Authorization (House conferees not yet appointed).
S. 865, DOE National Security Programs Authorization (House conferees not yet appointed).
S. 866, Military Construction Authorization (House conferees not yet appointed).
H.R. 3051, Air Passenger Protection Act.
H.R. 1900, Child Abuse Prevention, Adoption, and Family Services.
H.R. 5, Elementary and Secondary Education Improvement (House conferees not yet appointed).
H.R. 2470, Medicare Catastrophic Loss Prevention Act (Senate conferees not yet appointed).

BILLS PASSED BY BOTH HOUSES

H.R. 431, Garn-St Germain Depository Institutions Act Extension (House disagreed to Senate amendments; Message on House action received 3/23, and held at desk).
S. 742, Fairness in Broadcasting Doctrine (veto message referred to Senate Commerce Committee, 6/23).
S. 999 and H.R. 1504, Veterans Employment and Education Amendments.
H.R. 1340, Commodity Distribution Reform Act (House concurred in Senate amendments, with amendments, 12/17).
H.R. 2616, Omnibus Veterans' Benefits (message on Senate action sent to House, 12/8).
H.R. 2907, Treasury, Postal Service, and General Government Appropriations. See H.J. Res. 395.
H.R. 2712, Department of the Interior Appropriations. See H.J. Res. 395.
H.R. 2713, District of Columbia Appropriations. See H.J. Res. 395.
H.R. 2714, Legislative Branch Appropriations. See H.J. Res. 395.
H.R. 3058, Labor, HHS, and Education Appropriations. See H.J. Res. 395.
H.R. 2783, HUD Appropriations. See H.J. Res. 395.
H.R. 2763, Commerce, Justice, and State Appropriations. See H.J. Res. 395.
H.R. 2906, Military Construction Appropriations. See H.J. Res. 395.
H.R. 2890, DOT Appropriations. See H.J. Res. 395.
H.R. 2700, Energy and Water Development Appropriations. See H.J. Res. 395.
S. 1539 and H.R. 3743, Railroad Safety Act.

SIGNIFICANT BILLS PASSED BY SENATE AND AWAITING HOUSE ACTION

S. 341, Emergency Agricultural Assistance.
S.J. Res. 34, Federal Pay Increase Disapproval.
S.J. Res. 42, Federal Pay Increase Rescission.
S. 477, Homeless Veterans Assistance.
S. 514, Jobs for Employable Dependent Individuals.
S. 659, Agricultural Aid and Trade Missions.
S. 778, Star Schools Program.
S. 853, National Highway Safety Administration Authorization.
S. 623, Independent Safety Board Authorization.
S. 836, Strategic Petroleum Reserve Protection.
S. 744, Exposure to Radon Health Threat.
S. 548, Retiree Benefits Bankruptcy Protections.
S. 938, Department of Justice Authorization.
S. 945, Abandoned Infants Assistance.
S. 1402, Nursing Shortage Reduction.
S. 1196, Marine Science, Technology, and Resources Development.
S. 1441, Infant Mortality Amendments.
S. 1628, Aviation Insurance Program.
S. 1748, Prohibition of Imports of Products from Iran.
S. 328, Prompt Payment Act Amendments.
S.J. Res. 194, Persian Gulf War.

OTHER MAJOR ITEMS PASSED BY SENATE (NOT REQUIRING PRESIDENT'S SIGNATURE):

S. Res. 23, Select Committee on Iran/Contra Affair.
S. Res. 94, Soviet/U.S. Arms Control Resolution.
S. Con. Res. 24, Central America Initiative Support.
S. Res. 190, Acquired Immune Deficiency Syndrome Research.
S. Res. 31, Soviet Occupation of Afghanistan.
S. Con. Res. 27, Veterans' Administration Health Care Funding Levels.
S. Res. 255, Missing in Action Negotiations.
S. Con. Res. 29, American Relatives in the Soviet Union.
S. Res. 261, Site of the Soviet Embassy in Washington.
S. Res. 279, Conduct of Senate Political Committees.
S. Res. 282, Support for the Philippines.
S. Res. 348, Arms Control Treaty Review Support Office in Senate.

PUBLIC LAWS, 100th Congress, 1ST SESSION
(January 6, 1987—December 30, 1987)

Public Law Number, Bill Number, title, and date approved:

100-1, H.J. Res. 88, Joint Economic Report Submission Extension, Jan. 28, 1987.
100-2, H.J. Res. 93, Long Island Railroad Labor Dispute, Jan. 8, 1987.
100-3, S.J. Res. 24, National Challenger Center Day, Jan. 8, 1987.
100-4, H.R. 1, Clean Water, Feb. 4, 1987.
100-5, H.J. Res. 131, Americas Cup (Congratulating Dennis Connor), Feb. 11, 1987.
100-6, H.J. Res. 102, Emergency Food and Shelter Program Appropriations FY 1987/Federal Pay Raise Disapproval, Feb. 12, 1987.
100-7, H.J. Res. 3, Hatch Act 100th Anniversary, Mar. 5, 1987.
100-8, H.J. Res. 53, Federal Employees Recognition Week, Mar. 6, 1987.
100-9, S.J. Res. 20, Women's History Month, Mar. 12, 1987.
100-10, S.J. Res. 46, Arizona Diamond Jubilee Year, Mar. 12, 1987.
100-11, H.J. Res. 153, Asbestos School Hazard Abatement, Mar. 17, 1987.
100-12, S. 83 Energy Standards for Appliances, Mar. 17, 1987.
100-13, S.J. Res. 65, National Know Your Cholesterol Week, Mar. 20, 1987.
100-14, H.J. Res. 1056, Ginnie Mae Guaranty Fee Limitation, Mar. 24, 1987.
100-15, S.J. Res. 19, National Energy Education Day, Mar. 25, 1987.
100-16, S.J. Res. 63, Afghanistan Day, Mar. 27, 1987.
100-17, H.R. 2, Federal-Aid Highway Authorization, Apr. 2, 1987.
100-18, S. 632, Independent Safety Board Authorization, Apr. 3, 1987.
100-19, S.J. Res. 96, Interstate Commerce Commission Day, Apr. 3, 1987.
100-20, H.J. 1505, Federal Employees Retirement System—Technical Corrections, Apr. 7, 1987.
100-21, S.J. Res. 47, National POW Recognition Day, Apr. 8, 1987.
100-22, S.J. Res. 18, National Fishing Week, Apr. 10, 1987.
100-23, S.J. Res. 64, Older Americans Month, Apr. 10, 1987.
100-24, S.J. Res. 74, National Cancer Institute Month, Apr. 10, 1987.
100-25, H.J. Res. 200, Education Day, U.S.A, April 17, 1987.
100-26, H.R. 1783, Defense-Related Laws—Technical Corrections, Apr. 21, 1987.
100-27, H.J. Res. 119, National Minority Cancer Awareness Week, Apr. 21, 1987.
100-28, H.R. 1123, Food Security Act Amendments, Apr. 24, 1987.
100-29, S.J. Res. 58, National Child Abuse Prevention Month, Apr. 29, 1987.
100-30, S.J. Res. 89, National Organ and Tissue Donor Awareness Week, Apr. 29, 1987.
100-31, S.J. Res. 57, National Older Americans Abuse Prevention Week, May 5, 1987.
100-32, S.J. Res. 67, National Digestive Diseases Awareness Month, May 5, 1987.
100-33, H.R. 14 Wild and Scenic Rivers Study—New Jersey, May 7, 1987.
100-34, H.R. 1963, Surface Mining Control and Reclamation, May 7, 1987.
100-35, H.R. 240, Santa Fe National Historic Trail, May 8, 1987.
100-36, S.J. Res. 55, National Osteoporosis Prevention Week, May 12, 1987.
100-37, S.J. Res. 124, Just Say No to Drug Week, May 12, 1987.
100-38, S. 1167, Stewart B. McKinney National Wildlife Refuge (Designation), May 13, 1987.
100-39, H.J. Res. 67, Jewish Heritage Week, May 14, 1987.
100-40, H.R. 2360, Public Debt Limit Increase, May 15, 1987.
100-41, S. 903, Bankruptcy Code Amendment (LTV), May 15, 1987.
100-42, H.R. 1941, Federal Savings and Loan Insurance Corporation Recapitalization, May 21, 1987.
100-43, S. 1177, Thrift Savings Fund Investment Procedures, May 22, 1987.
100-44, H.J. Res. 290, National Day of Mourning for the Victims of the U.S.S. *Stark*, May 23, 1987.
100-45, H.R. 1157, Wheat Acreage Diversion Program and Disaster Assistance, May 27, 1987.
100-46, H.J. Res. 270, 150th Anniversary of the Department of Agriculture, May 29, 1987.
100-47, S. 942, Tuscon Wage Area Pay Retention, May 29, 1987.
100-48, H.R. 1085, GI Bill Continuation, June 1, 1987.
100-49, S.J. Res. 70, 40th Anniversary of the Marshall Plan, June 1, 1987.
100-50, H.R. 1846, Higher Education—Technical Amendments, June 3, 1987.
100-51, H.J. Res. 280, 300th Commencement Exercise at Ohio State University, June 16, 1987.
100-52, S.J. Res. 5, Baltic Freedom Day, June 16, 1987.

100-53, H.R. 1947, U.S. Bankruptcy Judges and Magistrates Retirement Party, June 18, 1987.

100-54, H.J. Res. 283, Hon. Wilbur J. Cohen Commendation, June 18, 1987.

100-55, S. 626, Statue of Liberty Entrance Fees, June 19, 1987.

100-56, H.J. Res. 106, American Gospel Arts Day, June 23, 1987.

100-57, H.J. Res. 17, National Dairy Goat Awareness Week, June 25, 1987.

100-58, H.J. Res. 178, National Catfish Day, June 25, 1987.

100-59, H.R. 2243, Thomas P. O'Neill, Jr. Federal Building, June 29, 1987.

100-60, H.R. 2100, Kenneth G. Ward Border Station, June 29, 1987.

100-61, H.J. Res. 284, National Outward Bound Week, June 29, 1987.

100-62, S.J. Res. 86, National Immigrants Day, June 29, 1987.

100-63, H.R. 191, Peace Garden Establishment, June 30, 1987.

100-64, S.J. Res. 117, National Literacy Day, July 6, 1987.

100-65, H.R. 626, Land Conveyance—Alabama, July 10, 1987.

100-66, H.R. 2480, Extension of U.S.-Korea International Fisheries Agreement, July 10, 1987.

100-67, H.J. Res. 181, Northwest Ordnance of 1787 Bicentennial, July 10, 1987.

100-68, S.J. Res. 15, National Alzheimer's Disease Month, July 10, 1987.

100-69, S.J. Res. 51, National Czech-American Heritage Week, July 10, 1987.

100-70, S.J. Res. 75, National Podiatric Medicine Week, July 10, 1987.

100-71, H.R. 1827, Supplemental Appropriations, FY 1987, July 11, 1987.

100-72, H.R. 2166, Small Business Amendments, July 11, 1987.

100-73, S.J. Res. 138, U.S. Olympic Festival Day, July 15, 1987.

100-74, H.R. 436, Warren F. Burger Federal Building, July 17, 1987.

100-75, S.J. Res. 85, International Special Olympics Day, July 20, 1987.

100-76, H.J. Res. 122, Snow White Week, July 21, 1987.

100-77, H.R. 558, Urgent Relief for the Homeless, July 22, 1987.

100-78, S.J. Res. 88, Geography Awareness Week, July 24, 1987.

100-79, S.J. Res. 160, Clean Water Day, July 28, 1987.

100-80, H.R. 3022, Public Debt Limit Extension (through August 7, 1987), July 30, 1987.

100-81, S.J. Res. 76, Mental Illness Awareness Week, July 31, 1987.

100-82, S.J. Res. 151, Helsinki Human Rights Day, Aug. 4, 1987.

100-83, S. 1020, Librarian of Congress Emeritus, Aug. 4, 1987.

100-84, H.R. 3190, Public Debt Limit, Aug. 10, 1987.

100-85, S. 958, North Cascades National Park, Washington Designation to Senator Henry M. Jackson, Aug. 10, 1987.

100-86, H.R. 27, Federal Savings and Loan Insurance Corporation Recapitalization, Aug. 10, 1987.

100-87, S.J. Res. 121, National Neighborhood Crime Watch Day, Aug. 11, 1987.

100-88, H.J. Res. 313, National Child Support Enforcement Month, Aug. 13, 1987.

100-89, H.R. 318, Ysleta del Sur Pueblo, the Alabama, and Coushatta Tribes of Texas Restoration, Aug. 18, 1987.

100-90, H.R. 348, Postal Service Employee Appeal Rights, Aug. 18, 1987.

100-91, H.R. 921, Aircraft Altitude Over National Parks, Aug. 18, 1987.

100-92, H.R. 1403, John E. Grotberg Post Office Building, Charles, Illinois, Aug. 18, 1987.

100-93, H.R. 1444, Medicare and Medicaid Patient and Program Protection, Aug. 18, 1987.

100-94, H.R. 2309, Christopher Columbus Quincentenary Amendments, Aug. 18, 1987.

100-95, H.R. 2855, Gay Head Indian Lands Settlement, Aug. 18, 1987.

100-96, H.J. Res. 216, Iran-Iraq Ceasefire, Aug. 18, 1987.

100-97, S. 769, Minority Health Education, Aug. 18, 1987.

100-98, S. 1371, Wilbur J. Cohen Federal Building, Washington, D.C., Aug. 18, 1987.

100-99, S. 1577, Bankruptcy Protections Extension, Aug. 18, 1987.

100-100, S. 1597, Ethanol Cost Effectiveness Study Extension, Aug. 18, 1987.

100-101, S.J. Res. 44, National Diabetes Month, Aug. 18, 1987.

100-102, S.J. Res. 49, National POW/MIA Recognition Day, Aug. 18, 1987.

100-103, S.J. Res. 87, National Community Education Day, Aug. 18, 1987.

100-104, S.J. Res. 108, German-American Day, Aug. 18, 1987.

100-105, S.J. Res. 109, National School Yearbook Week, Aug. 18, 1987.

100-106, S.J. Res. 157, Lupus Awareness Month, Aug. 18, 1987.

100-107, H.R. 812, Malcolm Baldridge National Quality Award, Aug. 20, 1987.

100-108, H.R. 2971, Cotton Classing Fees, Aug. 20, 1987.

100-109, H.R. 3085, Water Projects Amendment—Lock Haven, PA, Aug. 20, 1987.

100-110, S.J. Res. 335, National Reye's Syndrome Awareness Week, Aug. 20, 1987.

100-111, S. 1591, Documentation of Foreign-Built Fish-Processing Vessels, Aug. 20, 1987.

100-112, S.J. Res. 175, U.S. Soccer Federation World Cup, Aug. 20, 1987.

100-113, S. 1550, Federal Triangle Development, Aug. 21, 1987.

100-114, H.J. Res. 134, Emergency Medical Services Week, Sept. 23, 1987.

100-115, S.J. Res. 22, National Historically Black Colleges Week, Sept. 24, 1987.

100-116, H.J. Res. 224, Benign Essential Blepharospasm Awareness Week, Sept. 28, 1987.

100-117, S. 1596, Child Abuse and Neglect Assistance Extension, Sept. 28, 1987.

100-118, S.J. Res. 135, Polish American Heritage Month, Sept. 28, 1987.

100-119, H.J. Res. 324, Public Debt Limit/Gramm-Rudman-Hollings Budget Amendment, Sept. 29, 1987.

100-120, H.J. Res. 362, Continuing Appropriations 1988, Sept. 30, 1987.

100-121, H.R. 1163, Aviation Reports and Records Offenses Penalties, Sept. 30, 1987.

100-122, S.J. Res. 191, Housing and Community Development Programs Extension, Sept. 30, 1987.

100-123, S. 1532, Congressional Telecommunications Services, Oct. 5, 1987.

100-124, S.J. Res. 84, National Down's Syndrome Month, Oct. 5, 1987.

100-125, H.J. Res. 355, Gold Star Mothers Day, Oct. 8, 1987.

100-126, S.J. Res. 142, Medical Research Day, Oct. 8, 1987.

100-127, H.R. 1744, Historic Preservation Fund Authorization, Oct. 9, 1987.

100-128, S.J. Res. 72, National Jobs Skills Week, Oct. 14, 1987.

100-129, S.J. Res. 110, World Food Day, Oct. 14, 1987.

100-130, H.R. 242, Land Conveyance—Oconto and Marinette Counties, Wisconsin, Oct. 14, 1987.

100-131, H.J. Res. 338, National Safety Belt Use Day, Oct. 14, 1987.

100-132, H.R. 797, Gettysburg National Military Park Land Acquisition, Oct. 16, 1987.

100-133, H.R. 1205, Reversionary Land Interest, Putnam County, Florida, Oct. 16, 1987.

100-134, H.R. 2035, Lowell National Historical Park Authorization Increase, Oct. 16, 1987.

100-135, H.R. 2249, Library of Congress Security Employees, Oct. 16, 1987.

100-136, S. 1691, Veterans' Administration Housing Loan Fees, Oct. 16, 1987.

100-137, S. 1574, Senator's Clerk Hire Allowance, Oct. 21, 1987.

100-138, H.R. 3226, White House Conference for a Drug Free America Travel Expenses, Oct. 23, 1987.

100-139, H.R. 1567, Cow Creek Band of Umpqua Indians Judgment Fund Distribution, Oct. 26, 1987.

100-140, S. 1666, Physicians' Comparability Allowances, Oct. 26, 1987.

100-141, H.R. 2741, 1988 Olympic Gold Coins, Oct. 28, 1987.

100-142, H.J. Res. 234, National Hospice Month, Oct. 28, 1987.

100-143, S.J. Res. 163, National Family Bread Baking Month, Oct. 28, 1987.

100-144, S.J. Res. 168, National Adult Immunization Awareness Week, Oct. 28, 1987.

100-145, S.J. Res. 198, National Tourette Syndrome Awareness Week, Oct. 28, 1987.

100-146, S. 1417, Developmental Disabilities Assistance Act Extension, Oct. 29, 1987.

100-147, H.R. 2782, NASA Authorization, FY 1988, Oct. 30, 1987.

100-148, S. 1628, Aviation Insurance Program Extension, Oct. 30, 1987.

100-149, H.R. 317, Wild and Scenic Rivers Designation: Merced River, California, Nov. 2, 1987.

100-150, H.R. 799, Wild and Scenic Rivers Designation: Kings River, California, Nov. 3, 1987.

100-151, H.R. 2893, Fisherman's Protective Act, Nov. 3, 1987.

100-152, H.R. 3325, Road Designation—Alabama: Robert E. Jones, Jr., Highway, Nov. 3, 1987.

100-153, H.R. 2937, Indians Laws Technical Amendments, Nov. 5, 1987.

100-154, S.J. Res. 209, Housing Programs Extensions, Nov. 5, 1987.

100-155, S.J. Res. 171, National Women Veterans Recognition Week, Nov. 6, 1987.

100-156, H.R. 307, Charels E. Chamberlain Federal Building, Lansing Michigan (Designation), Nov. 9, 1987.

100-157, H.R. 1366, Land Transfer—Arizona, Nov. 9, 1987.

100-158, H.J. Res. 309, Speaker's Civic Award Program, Nov. 9, 1987.

100-159, S. 442, Semiconductor Chip Protection Extension, Nov. 9, 1987.

100-160, H.R. 614, Hugo L. Black U.S. Courthouse, Birmingham, Alabama (Designation), Nov. 10, 1987.

100-161, H.J. Res. 368, National Food Bank Week, Nov. 10, 1987.

100-162, H.J. Res. 394, Further Continuing Appropriations, FY 1988, Nov. 10, 1987.

100-163, S.J. Res. 154, National Arts Week, Nov. 12, 1987.

100-164, H.J. Res. 97, Disabled American Vietnam Veterans National Memorial Recognition, Nov. 13, 1987.

100-165, H.J. Res. 130, National Family Caregivers Week, Nov. 13, 1987.

100-166, S.J. Res. 66, National Family Week, Nov. 13, 1987.

100-167, H.R. 3428, Distribution of USIA Film: "America The Way I See It", Nov. 17, 1987.

100-168, S.J. Res. 174, African American Education Week, Nov. 17, 1987.

100-169, S.J. Res. 205, U.N. General Assembly Resolution 3379 Overturn, Nov. 17, 1987.

100-170, S.J. Res. 220, Housing and Community Development Programs Extension, Nov. 17, 1987.

100-171, S.J. Res. 53, American Indian Week, Nov. 19, 1987.

100-172, S.J. Res. 97, National Adoption Week, Nov. 19, 1987.

100-173, H.R. 3457, Poultry Producers Assistance, Nov. 23, 1987.

100-174, S. 247, Wild and Scenic River Designation: Kern River, Nov. 24, 1987.

100-175, H.R. 1451, Older American Programs Authorization, Nov. 29, 1987.

100-176, S.J. Res. 98, National Home Health Care Week, Nov. 30, 1987.

100-177, S. 1158, Public Health Service Amendments, Dec. 1, 1987.

100-178, H.R. 2112, Intelligence Activities Authorization, Dec. 2, 1987.

100-179, H.J. Res. 404, Housing and Community Development Programs Extension, Dec. 3, 1987.

100-180, H.R. 1748, DOD Authorization, FY 1988-89, Dec. 4, 1987.

100-181, S. 1452, SEC Authorization and Securities Laws Amendments, Dec. 4, 1987.

100-182, S. 1822, Sentencing Reform Amendments, Dec. 7, 1987.

100-183, S.J. Res. 105, National Pearl Harbor Remembrance Day, Dec. 7, 1987.

100-184, H.R. 148, Michigan Wilderness, Dec. 8, 1987.

100-185, H.R. 3483, Criminal Fines, Dec. 11, 1987.

100-186, S. 860, National March "Stars and Stripes Forever", Dec. 11, 1987.

100-187, S. 1297, DeSota National Trail Study, Dec. 11, 1987.

100-188, S.J. Res. 136, National Drunk and Drugged Driving Awareness Week, Dec. 11, 1987.

100-189, S.J. Res. 146, National Skiing Day, Dec. 11, 1987.

100-190, S.J. Res. 35, National Day of Excellence, Dec. 14, 1987.

100-191, H.R. 2939, Independent Counsel Reauthorization, Dec. 15, 1987.

100-192, S. 578, National Trail Designation: Trail of Tears, Dec. 16, 1987.

100-193, H.J. Res. 425, Further Continuing Appropriations, FY 1988, Dec. 16, 1987.

100-194, H.J. Res. 412, 60th Birthday Congratulations to King Bhumibol Adulyadej (Thailand), Dec. 17, 1987.

100-195, H.J. Res. 199, Actors' Fund of America Appreciation Month, Dec. 18, 1987.

100-196, S. 649, Oroville-Tonasket Unit, Washington, Irrigation Project, Dec. 18, 1987.

100-197, H.J. Res. 431, Continuing Appropriations, FY 1988, Dec. 20, 1987.

VETOED BILLS, 100TH CONGRESS—1ST SESSION

(Those vetoes which were overridden and became law are printed in italic; Numbers in parenthesis indicate Senate Record Vote on override.)

1. January 30, 1987, H.R. 1: Clean Water (House overrode veto February 3, 1987; Senate overrode veto February 4, 1987—Vote No. 19). Became Public Law 100-4, without approval February 4, 1987.

2. March 23, 1987, H.R. 2: Federal-Aid Highway Authorization (House overrode veto March 31, 1987; Senate overrode veto April 2, 1987, upon reconsideration—Vote No. 60). Became Public Law 100-17, without approval April 2, 1987.

3. June 19, 1987, S. 742: Fairness in Broadcasting Doctrine.

DIGEST OF SENATE LEGISLATIVE ACTIONS, 100TH CONGRESS—1ST SESSION

(January 6, 1987—December 21, 1987)

(Includes all bills except for land conveyances, interstate compacts, medals, memorials, and proclamations. Record vote numbers for Senate action on final passage, a conference report, or a veto override are indicated in parentheses immediately following the status of a bill. Where there are no vote numbers, action was completed by voice vote.)

AGRICULTURE

Agricultural Aid and Trade Missions: S. 659—Passed Senate April 9, 1987.

Establishes agricultural aid and trade missions to visit eligible developing countries to promote U.S. food aid and trade programs and seek firm proposals or agreements to implement these programs; expands agricultural exports and markets through greater participation of private voluntary organizations (PVO's) and cooperatives, increased use of foreign currency proceeds by PVO's and cooperatives for development purposes, increased use of section 108 programs in Title I agreements, and expanded reporting and expediting of PVO and cooperative activities under P.L. 480 Title II and section 416 of the Agricultural Act of 1949; approves multiyear agreements under the Food for Progress program; and requires the Secretary to report to Congress on the performance of the Intermediate Export Credit Program.

Agricultural Export Enhancement Program: S. Con. Res. 67—Senate agreed to July 22, 1987.

States the sense of the Congress that the Secretary of Agriculture should ensure that the Export Enhancement Program is adequately funded (with either cash or PIK commodities) in FY 1987-90.

Agricultural Markets in Developing Countries: H. Con. Res. 151—Action completed August 7, 1987.

Makes the development of agricultural markets in developing countries a high priority of the foreign economic policy of the U.S.

Alternative Agricultural Products Research: S. 970—Passed Senate July 29, 1987.

Authorizes $75 million annually in FY 1988-2007 for research to develop new crops or modify existing crops and crop materials to produce new marketable commercial and industrial products.

Cotton Classing Fees: H.R. 2971—Public Law 100-108, approved August 20 1987.

Extends through FY 1992, the Secretary of Agriculture's authority to recover costs associated with cotton classing services; prescribes methods for determining the classification fee for each crop year and requires the Secretary to announce the uniform fee, and any surcharge, by June 1 of each crop year; authorizes an increase in the operating reserve from 20 to 25 percent; and requires the Secretary of Agriculture to report to Congress on the differences between processing efficiency and product quality for Light Spotted and White grade cottons.

Emergency Agriculture Assistance: S. 341—Passed Senate January 29, 1987.

Requires the Secretary to (1) make disaster payments to all wheat producers who were prevented in 1986 from planting the 1987 wheat crop in time to assure normal crop production, and (2) provide cost estimates by February 17 regarding the extension of disaster relief to cotton, feed grain and soybean producers whose crop value was reduced because of flooding and other related moisture problems; places an overall cap of $1 million on this assistance; and limits to $20,000 the maximum amount that would be provided to any individual producer of hay and straw.

Farm Credit Amendments: H.R. 3030—Public Law 100- , approved . (397, 415)

Revises the Farm Credit System (FCS) which provides credit to farmers, ranchers, and farm cooperatives; requires FCS lenders to restructure the loans of financially-stressed farmer-borrowers; imposes similar requirements on FmHA farm loans; requires FCS institutions to retire farmer-held stock at par value; authorizes $7.5 million annually for matching grants to States for the operation of farm mediation programs; establishes the Farm Credit Assistance Board to provide financial assistance to FCS institutions and a related Financial Assistance Corporation (FAC) which would be authorized to sell up to $4 billion in 15 year obligations to raise funds for system assistance; provides for initial funding of the FAC through a one-time assessment on FCS institutions; establishes an insurance program for system institutions; establishes a new secondary market for agricultural loans; and provides for the mandatory merger of the Federal Land Banks and the Federal Intermediate Credit Banks in each of the 12 Farm Credit Districts.

Farm Credit System: S. Res. 185—Senate agreed to April 8, 1987.

States the sense of the Senate that the Farm Credit Administration (FCA) and the Farm Credit System (FCS) should use their authorities to ensure the availability of reasonable credit rates and terms and protect borrowers' stock or allocated equities from impairment; and that the FCA should certify the FCS' need for financial assistance.

Food Security Act Amendments: H.R. 1123—Public Law 100-28, approved April 24, 1987.

Extends until March 31, 1988, the date by which the National Commission on Dairy Policy must report to the Secretary of Agriculture and Congress on matters relating to the domestic milk production industry and the Federal milk price support programs; and gives alfalfa producers, in rotation practice during the 1981-85 crop years, until June 1, 1988, to fully comply with the Highly Erodible Land Conservation provisions of the Act.

Poultry Producers Financial Protection: H.R. 3457—Public Law 100-173, approved November 23, 1987.

Specifies that the FTC has jurisdiction over marketing practices for poultry products and the Secretary of Agriculture has jurisdiction over live poultry transactions; establishes a statutory trust, for the benefit of unpaid cash sellers or poultry growers, on the assets of live poultry dealers with average annual sales or value of live poultry obtained by purchase or by poultry growing arrangement, greater than $100,000; authorizes a cause of action for poultry sellers and growers damaged by Act violations or orders of the Secretary, related to the purchase or sale of poultry or to a poultry growing arrangement; provides for prompt payment in the sale or delivery of poultry; and repeals Title V of the Packers and Stockyards Act

of 1921 relating to dealers and handlers of live poultry.

Renewable Resources Extension Authorization: H.R. 2401—Passed House July 27, 1987; Passed Senate amended December 19, 1987.

Reauthorizes the Renewable Resources Extension Act for 12 years, through 2000, at its current funding level of $15 million annually and requires the Agriculture Department, to include in its five-year Renewable Resources Extension Program plan an evaluation of the progress made toward accomplishing the goals and objectives set forth in the preceding plan, both for each State and for the country as a whole.

Rural Crisis Recovery Program: H.R. 3492—Public Law 100- , approved , 1987.

Directs the Secretary of Agriculture to provide special grants for programs to develop educational, retraining, and counseling assistance for farmers, dislocated farmers, and rural families who have been adversely affected by the current farm and rural economic crisis.

Wheat Diversion Program and Acreage Limitation Level: S. Res. 237—Senate agreed to June 19, 1987.

States the sense of the Senate that it is in the best interests of U.S. wheat producers to immediately receive the details of the 1988 wheat program which should include no more than a 27.5 percent acreage limitation level.

Wheat Diversion Program and Disaster Assistance: H.R. 1157—Public Law 100-45, approved May 27, 1987.

Provides for a winter wheat diversion program for the 1987 crop year under which producers could set aside 100 percent of their acreage and receive 92 percent of their deficiency payment; authorizes disaster payments for producers of 1987 crops of cotton, spring wheat, and rice who were prevented from planting because of disasters occurring in 1986; expresses the sense of the Congress that the Secretary of Agriculture should establish a sunflower price support program if a soybean price support is initiated; makes the deficiency payments for the 1986 feed grains crop immediately available and payable in negotiable certificates; authorizes the issuance of additional Commodity Credit Corporation commodity certificates to cover the full amount of claims submitted by farmers under the 1986 special farm disaster program, subject to advance appropriations, and requires appointment of the ethanol panel within 30 days of enactment.

APPROPRIATIONS—FY 1987

Emergency Food and Shelter Program/Federal Pay Increase Disapproval: H.J. Res. 102—Public Law 100-6, approved February 12, 1987. Note: (The House, on February 4, 1987, agreed to the Senate amendments, thus clearing the bill for the President. Because the House did not act prior to the midnight, February 3, 1987, deadline, the Federal pay raise went into effect.) (12)

Transfers $50 million from the Federal Emergency Management Agency's (FEMA's) disaster relief program to its emergency program to feed and shelter the homeless, especially during the bitter cold months, $5 million of which would be transferred to the Veterans' Administration for homeless veterans with chronic mental illness; rescinds $7.5 million in FEMA disaster relief funds; disapproves the $28 million deferral for the Temporary Emergency Food Assistance Program; and disapproves the automatic salary increase for Members of Congress, Federal judges, and top executive branch officials, as recommended by the President in his FY 1988 Budget, transmitted to Congress on January 5, 1987.

Supplemental: H.R. 1827—Public Law 100-71, approved July 11, 1987. (145)

Makes supplemental appropriations for FY 1987 totaling $9,377,119,976 in new budget authority, which includes $408,536,000 for increased pay costs, $1,163,781,000 to fund the homeless initiative, $5,553,189,000 to reimburse the CCC for net realized losses, $747,500,000 for DOD, $257,813,486 for U.S. contributions to international financial institutions, and $137,216,000 for the Immigration and Naturalization Service.

APPROPRIATIONS—FY 1988

Commerce-Justice-State: H.R. 2763—Passed House July 1, 1987; Passed Senate amended October 15, 1987; Provisions in H.J. Res. 395, Public Law 100- . (333)

Appropriates $14,194,813,933 in new budget authority for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies which includes $2,536,233,933 for the Department of Commerce, $5,303,943,000 for the Department of Justice, $2,457,726,000 for the Department of State, $1,405,108,000 for the Judiciary, and $2,525,703,000 for related agencies; establishes a commission to determine the proper U.S. contribution to international agencies; includes $17.8 million for the National Endowment for Democracy of which $250,000 is for the free press, free radio, and peaceful civic opposition, in Nicaragua; prohibits use of funds to require or facilitate in any way the performance of any abortion; prohibits further obligation of funds for construction of the new U.S. embassy in Moscow, except for demolition of the upper eight floors; prohibits the Soviets from occupying their new chancery in Washington, D.C., until there is a new secure U.S. chancery in Moscow suitable for U.S. embassy operations, and the Soviets have reimbursed the U.S. for damages resulting from the present building; prohibits the sale to third parties of disaster assistance direct loans and SBA-guaranteed debentures issued by certified development companies and small business investment companies which were held by the Federal Financing Bank on September 30, 1987; prohibits SBA from implementing any new or additional user, guaranty, or examination fees and the Equal Employment Opportunity Commission during FY 1988 from enforcing its regulation permitting employees to waive their rights under the Age Discrimination in Employment Act; reinstitutes normal immigration from Cuba and third countries; and establishes quotas for annual Indochinese refugee admissions in FY 1988-90.

Continuing: H.J. Res. 362—Public Law 100-120, approved September 30, 1987. (274)

Makes continuing appropriations to remain available at their current level from October 1, 1987, until November 10, 1987, or enactment of the applicable appropriation bill, whichever occurs first, for all programs and activites funded under the 13 major appropriations bills, except foreign assistance, which is funded at the current level or the President's budget request, whichever is lower, and except for aid to the Contras which is funded only for humanitarian assistance at the rate of $2.65 million per month.

H.J. Res. 394—Public Law 100-162, approved November 10, 1987.

Extends the continuing resolution, Public Law 100-120, which is due to expire on November 10, 1987, until December 16, 1987, or enactment of the applicable appropriation bill, whichever occurs first.

H.J. Res. 425—Public Law 100-193, approved December 16, 1987.

Extends the continuing resolution, Public Law 100-162, which is due to expire on December 16, 1987, until December 18, 1987, or enactment of the applicable appropriation bill, whichever occurs first.

H.J. Res. 431—Public Law 100-197, approved December 20, 1987.

Extends the continuing resolution, Public Law 100-162, which expired on December 18, 1987, until December 21, 1987, or enactment of the applicable appropriation bill, whichever occurs first.

H.J. Res. 395—Public Law 100- , approved 1987. (414)

Makes further continuing approporiations to remain available from December 21, 1987, through September 30, 1988, or enactment of the applicable appropriation bill, whichever occurs first, for all programs and activities funded under the 13 major appropriations bills as follows: Commerce-Justice-State-Judiciary; District of Columbia, Energy-Water, HUD, Interior, Labor-HHS, Legislative, Military Construction, Transportation, and Treasury-Postal Service at the Senate-passed level, as adjusted to reflect the budget summit agreement, and Agriculture, Defense, and Foreign Assistance at the Senate-reported level, as adjusted to reflect the budget summit agreement; allows apportionment on a deficiency basis as necessary to permit payment of such pay increases granted pursuant to law, making executive and military pay consistent with wage-rate pay increases; provides authority for a civilian and military pay raise of 2 percent effective January 1, 1988; and prohibits pay increases for Members of Congress, judges, and senior members of the executive branch and District of Columbia government.

District of Columbia: H.R. 2713—Passed House June 26, 1987; Passed Senate amended September 30, 1987; Provisions in H.J. Res. 395, Public Law 100- . (291)

Appropriates $564,618,000 in Federal funds and approves $2,627,742 in District of Columbia funds, making a combined total of $3,192,360,000 available for the District of Columbia in FY 1988; restates the prohibition on the use of Federal funds to perform abortions except in cases of rape or incest, or where the life of the mother is endangered and includes language allowing Federal funds to be used for medical procedures necessary to terminate ectopic pregnancies; and prohibits the use of Federal funds appropriated to the District after December 31, 1987, if the D.C. Council has not repealed D.C. Law 6-170 which prohibits insurance companies from requiring AIDS tests, using the test to alter insurance coverage, and raising premiums for individuals who test positive.

Energy-Water: H.R. 2700—Passed House June 24, 1987; Passed Senate amended November 18, 1987; Provisions in H.J. Res. 395, Public Law 100- . (383)

Appropriates $15,919,912,000 in new budget authority for energy and water development for FY 1988; directs the Secretary of Energy to select by January 1, 1989, one of the three candidate nulcear waste repository sites now under consideration for "detailed site characterization work" and halt work on the other sites unless the one chosen proves unacceptable; and suspends further site-specific work on a second repository in the eastern U.S. as required by the Nuclear Waste Policy Act of 1982.

HUD: H.R. 2783—Passed House September 22, 1987; Passed Senate amended October 15, 1987; Provisions in H.J. Res. 395, Public Law 100– . (332)

Appropriates $57,216,459,000 in new budget authority for the Department of Housing and Urban Development, Veterans' Administration, National Aeronautics and Space Administration, Environmental Protection Agency, National Science Foundation, and other agencies, commissions, boards, corporations, institutes, and offices of which $13,089,649,000 is for HUD and $44,126,810,000 for the related agencies; rescinds $2.0 million in contract authority and $52.0 million in budget authority for the Rental Housing Assistance Program; places a $150 billion limitation on GNMA loan guarantee commitments; contains $225.0 million for UDAG, $1.5 billion for public housing operating subsidies, $3.0 billion for Community Development Block Grants, $5.3 billion for EPA, $653.3 million for FEMA, $9.1 billion for NASA, $1.9 billion for the NSF, and $27.1 billion for the VA.

Interior: H.R. 2712—Passed House June 25, 1987; Passed Senate amended September 30, 1987; Provisions in H.J. Res. 395, Public Law 100– . (288)

Appropriates $10,019,754,000 in new budget authority for the Department of the Interior and related agencies including $1.1 billion for the Bureau of Indian Affairs, $1.7 billion for the Forest Service, and $2.2 billion for the Department of Energy of which $164.2 million is for Strategic Petroleum Reserve (SPR) construction, and $806.9 million is for SPR petroleum acquisition and transportation; establishes SPR fill rates to provide a total inventory of 568 million barrels of crude oil in the Federal reserve by the end of FY 1988; continues the prohibition on the export of timber harvested on National Forest Service lands and on the use of funds to process or issue leases for coal, oil, gas, oil shale, or geothermal resources on certain wilderness lands; and prohibits the use of funds to produce literature or otherwise promote public support for a legislative proposal on which legislative action is incomplete.

Labor-HHS-Education and Related Agencies: H.R. 3058—Passed House August 5, 1987; Passed Senate amended October 14, 1987; Provisions in H.J. Res. 395, Public Law 100– . (326)

Appropriates $129,404,328,930 in new budget authority for the Departments of Labor, Health and Human Services, and Education and related agencies including $5,437,112,000 for the Department of Labor, $15,999,768,000 for HHS, $16,711,943,930 for the Department of Education, and $7,035,912,000 for related agencies; contains a total of $946.4 million for HHS research, prevention, information, and education activities for Acquired Immune Deficiency Syndrome (AIDS)-related programs; prohibits the Centers for Disease Control from using funds to provide AIDS education, information, or prevention materials and activities that promote or encourage, directly or indirectly, homosexual activities or the intravenous use illegal drugs; requires NIH to expedite the availability of experimental drugs for AIDS treatment that have shown some effectiveness in clinical trials and to enroll as many individuals with AIDS and the AIDS-related complex as feasible; precludes multiyear or forward funding of FY 1988 NIH grants, except as specifically required because of program or agency needs; requires a uniform percentage reduction of all travel expense accounts to achieve a total outlay reduction of $22.6 million; extends the moratorium on Job Corps center closings through January 1, 1989, and on the contracting of civilian conservation centers through program year 1988; requires reports on retired older Americans trying to reenter the workforce.

Legislative: H.R. 2714—Passed House June 29, 1987; Passed Senate amended September 30, 1987; Provisions in H.J. Res. 395, Public Law 100– . (293)

Appropriates $1,802,954,300 for the legislative branch in FY 1988 which includes $1.235 billion in Title I for the Senate, House, and joint items, as well as the Office of Technology Assessment, CBO, CRS, and Congressional printing done by GPO and a total of $568.0 million in Title II for other agencies which includes the Botanic Garden Library of Congress, GAO, and the Copyright Royalty Tribunal; requires an affirmative vote of Congress before any pay raise for Members of Congress could take effect; transfers maintenance of Library of Congress grounds from the Architect of the Capitol to the Librarian of Congress; and contains several administrative provisions of a technical or housekeeping nature relating to the Senate and House.

Military Construction: H.R. 2906—Passed House July 14, 1987; Passed Senate amended October 27, 1987; Provisions in H.J. Res. 395, Public Law 100– . (349)

Appropriates $8,280,698,000 in new budget authority for DOD military construction programs; contains $36.5 billion for construction activities, $15.5 billion for family housing operations, and $378 million for the NATO infrastructure program; permits the authorization of up to $100 million for construction to support a mobilization and requires the Secretary of Defense to report to the Appropriations Committees within 24 hours of invoking this authority; provides the full budget request for the Navy strategic homeporting initiative; restricts funding for projects in the Philippines only to those which are of an urgent, operational, or safety nature; prohibits the use of projects in the U.S. that use engineering, architectural, and construction services from foreign countries which do not provide the U.S. reciprocal access to its markets, prohibits funds to initiate design on the proposed Pentagon II complex and for facility construction to relocate the 401st; directs DOD to resubmit the FY 1989 military construction budget and to insure that future budget submissions do not contain lump sum requests for new construction; and requires the Secretary to report by February 15, 1988, on the specific actions that will be taken during the fiscal year to encourage improved burden sharing by member NATO nations and Japan.

Transportation: H.R. 2890—Passed House July 13, 1987; Passed Senate amended October 29, 1987; Provisions in H.J. Res. 395, Public Law 100– . (358)

Appropriates $11,104,718,569 in new budget authority for the Department of Transportation and related agencies in FY 1988; includes a $1.3 billion obligation limitation on the use of contract authority for the Airport Grants program, a $212.2 million limitation on Federal Highway Administration general operating expenses, a $12.2 billion limitation on Highway Trust Fund obligations, and a $13.4 billion limitation on Trust Fund liquidation of contract authority; requires the Urban Mass Transportation Administration to publish grant announcements in the Federal Register within seven calendar days of obligation; establishes, effective four months after enactment, a three-year prohibition on smoking on scheduled domestic flights of two hours or less and imposes a civil penalty of up to $1,000 for each violation; prohibits tampering with or disabling smoke alarms and imposes a civil penalty of up to $2,000 for each violation; allows a 65-miles-per-hour speed limit modification on highways that meet interstate standards and are not currently classified as interstates; specifies the tax status of certain Amtrak activities; ensures that grant applicants for airways science programs will not be penalized for having received funds in prior years; denies funds for transportation projects in the U.S. that use the engineering, architectural, and construction services of any foreign country that does not offer U.S. firms the same reciprocity with respect to bidding on projects in that country.

Treasury-Postal Service: H.R. 2907—Passed House July 1987; Passed Senate amended September 25, 1987; Provisions in H.J. Res. 395, Public Law 100– . (272)

Appropriates $15,067,250,000 in new budget authority for the Treasury Department, the U.S. Postal Service, the executive office of the President, and certain independent agencies for FY 1988, including $11 million in reappropriations resulting from enactment of the Supplemental Appropriations Act of 1987 (P.L. 100-71); precludes the Customs Service from reducing the number of Customs regions below the current level of seven during FY 1988; requires that any proposed interagency agreement for the transfer of appropriated funds of $500,000 or more be reported to the Appropriations Committees and that any proposed transfer of $1 million or more must be approved in advance by the Committees; and directs GSA and OPM to respond expeditiously to priority requests related to Federal efforts to combat Acquired Immunodeficiency Syndrome (AIDS) from the Directors of the Centers for Disease Control or the National Institute of Allergy and Infectious Diseases.

BUDGET

Budget Reconciliation, 1988: H.R. 3545—Public Law 100– , approved 1987.

Implements the November 20 budget summit agreement between the President and the Congressional leadership; provides for about $23 billion in revenue increases over the next two years and some $25 billion in entitlement and other savings. Combined with the $21 billion in defense and domestic spending reduction contained in the Continuing Resolution, the bill reduces the deficit by about $76 billion over the next two years.

First Concurrent Budget Resolution, 1988: H. Con. Res. 93—Action completed June 25, 1987. (97, 157)

Sets forth the recommended levels of total new budget authority, outlays, and revenues for the U.S. government for FY 1988–90, respectively, as follows: Budget Authority—$1,153.2 billion, $1,217.9 billion, $1,261.6 billion; Outlays—$1,040.8 billion, $1,083.85 billion, $1,117.05 billion; and Revenues—$932.8 billion, $993.95 billion, $1,066.75 billion; establishes deficit and public debt limits for FY 1988–90, respectively, as follows: Deficit—$108.0 billion, $89.9 billion, $50.3 billion; and Public Debt Limit—$2,565.1 billion, $2,777.1 billion, $2,964.2 billion.

CONGRESS

Capital Art/Old Executive Office Building Renovation: H.R. 60—Passed House July 21,

1987; Passed Senate amended December 19, 1987.

Permits the Architect of the Capitol to accept gifts of money for the purchase of works of fine art for the Capitol, and authorizes the Office of Administration to receive gifts from the public to help renovate and refurbish the Old Executive Office Building.

Civic Achievement Awards: H.J. Res. 309—Public Law 100-158, approved November 9, 1987.

Appropriates $680,000 in each FY 1988-89, to establish and support a Civic Achievement Award Program in honor of the Office of the Speaker of the House of Representatives to reward proficiency in civics by students, classes, and schools in grades five through eight to be administered by the Close Up Foundation in conjunction with the National Association of Elementary School Principals and under the direction of the Librarian of Congress.

DEFENSE-NATIONAL SECURITY

Coast Guard Authorizations: H.R. 2342—Passed House July 8, 1987; Passed Senate amended October 13, 1987; House agreed to Senate amendment with an amendment December 18, 1987.

Authorize $2.6 billion in FY 1988 and $2.8 billion in 1989 for Coast Guard O&M, acquisition, construction, improvement of equipment and facilities, R&D, retirement pay, and the alteration of bridges obstructing navigable waters; prohibits foreign construction of Coast Guard vessels; and calls for a study on the merits of acquiring a mobile semisubmersible facility for drug interdiction.

DOD Authorization: H.R. 1748—Public Law 100-180, approved December 4, 1987. (300, 384)

Authorizes funds for FY 1988-89 for military activities of the Department of Defense, military construction, and Department of Energy defense activities pegged to a $289 billion defense budget, or, if Congress authorizes a defense budget above that level, to a level pegged to a $296 billion defense budget; restricts FY 1988 nuclear weapons tests of those included on a list submitted to Congress in conformance with the narrow interpretation of the ABM Treaty; requires that a Poseidon missile submarine be taken out of service in order to comply with SALT II; authorizes $3.9 billion for SDI at both budgetary levels, including $279 million in DOE funds; places a moratorium on testing of the Space Defense System anti-satellite missile (ASAT); removes unitary chemical weapons from NATO Europe only upon their replacement with binary chemical weapons; authorizes 12 MX missiles for the test program to support the 50 silo-based missiles already funded; authorizes at the high budget level, $1.5 billion and $300 million for the Midgetman and rail mobile MX, respectively, and at the lower level, $700 million and $100 million, respectively; authorizes $380 million for procurement and R&D of the B1-B bomber and limits the use of funds to continue the B-1 test program and procure spare parts for portions of the aircraft not experiencing problems; and imposes procurement restrictions on the Bradley fighting vehicle program and requires a plan for correcting all deficiencies.

Intelligence Authorizations: H.R. 2112—Public Law 100-178, approved December 2, 1987.

Authorizes a classified amount of funds for U.S. intelligence activities in FY 1988, at a level pegged to a $289 billion defense budget, or, if Congress authorizes a defense budget above that level, to a level pegged to a $296 billion defense budget; authorizes $23.6 million for the Intelligence Community Staff and $134.7 million for the CIA Retirement and Disability System; limits military or paramilitary assistance to the Nicaraguan Contras to that specifically authorized by law; prohibits use of funds from the CIA's Reserve for Contingencies to support military or paramilitary operations of the Contras and requires Congressional approval of any unauthorized transfer of funds to support such operations; permits the provision of intelligence information and advice to the Contras; requires the Attorney General to report annually to Congress any cases where Soviet diplomats have been admitted to the U.S. over the objections of the FBI Director; extends through FY 1989 the Secretary of Defense's authority to terminate any civilian officer or employee of the Defense Intelligence Agency (DIA) without regard to normal Federal personnel procedure; exempts the DIA from executive branch personnel reporting requirements; provides retirement benefits and death-in-service benefits to certain former spouses of CIA employees; requires the CIA Director to contract with the National Academy of Public Administration to perform an objective classified study of personnel management and compensation systems affecting civilian personnel of the U.S. intelligence community; requires the Secretary to report to Congress an assessment of the Soviet Union's current and potential capabilities to intercept U.S. communications from the Soviet diplomatic facilities on Mount Alto in the District of Columbia and a determination of its effects on U.S. national security.

Military Retirement Reform Technical Correction: H.R. 2974—Public Law 100- , approved 1987.

Restores the original definition of "active duty" for determining eligibility for retirement benefits to exclude any active duty for training periods and makes several minor modifications in the COLA mechanism to ensure the accurate and uniform implementation of the changes in the Military Retirement Reform Act.

Persian Gulf War: S.J. Res. 194—Passed Senate October 21, 1987.

States that the circumstances in the Persian Gulf region including the incidents involving U.S. military forces on September 21, October 8, and October 19, 1987, justify an Administration report and a comprehensive Congressional review of the use of U.S. military forces in that region; requires the President to report to Congress within 30 days of enactment a review of the range of U.S. commitments and military involvements in the Persian Gulf region; provides the expedited consideration, within 90 days of enactment, of any resolution dealing with U.S. policy and commitments in the Persian Gulf which may be introduced within three session days after Congress receives the President's report; and states that nothing in this resolution should be construed as: limiting the President's constitutional powers as commander-in-chief to utilize U.S. military forces in self defense operations or urging the withdrawal of U.S. military forces from the Persian Gulf region; complying with, modifying or negating the War Powers Resolution of 1973 (P.L. 93-148); or being inconsistent with the proposition that the U.S., as a maritime power, has a preeminent interest in the freedom of the seas and in taking such actions as necessary to maintain such freedom.

DISTRICT OF COLUMBIA

Federal Triangle Development: S. 1550—Public Law 100-113, approved August 21, 1987.

Authorizes development of a Federal office complex and international Cultural and Trade Center on the Federal Triangle site in the District of Columbia to be built on a "lease-to-own" plan under which Federal lease payments over 30 years will pay for the building construction.

ECONOMY-FINANCE

Ex-Im Bank Soft Loans: H.R. 3289—Public Law 100- , approved , 1987.

Permits the Export-Import Bank to use a 100 percent soft loan for support of a transaction under the tied aid credit program in FY 1987-88, which is the same authority it had in FY 1986.

Federal Savings and Loan Insurance Corporation Recapitalization: S. 790—Passed Senate March 27, 1987. (44) H.R. 27—Public Law 100-86, approved August 10, 1987. (226)

Recapitalizes, at $10.825 billion, the Federal Savings and Loan Insurance Corporation (FSLIC); provides for the refund of contributions by thrift institutions to the FSLIC secondary reserve; closes the nonbank bank loophole as of March 5, 1987, and restricts the expansion of grandfathered nonbank banks; imposes a moratorium through March 1, 1988, on certain securities and insurance activities of banks or bank holding companies; requires thrift institutions to use generally accepted accounting principles instead of the regulatory accounting system; allows emergency interstate bank acquisitions; allows regulators to operate failed banks for up to three years while seeking purchasers for those institutions; establishes a new program to facilitate the recovery of troubled, but well-managed thrifts; regulates consumer checkholds; streamlines credit union operations; provides for the seven-year amortization of farm loans in agricultural banks; and reaffirms the sense of the Congress that Federally-insured deposits are backed by the full faith and credit of the U.S. government.

Garn-St Germain Depository Institutions Act Extension: H.R. 431—Passed House February 4, 1987; Passed Senate amended March 3, 1987; House disagreed to Senate amendment, March 12, 1987.

Extends until September 15, 1987, the emergency merger acquisition provisions of the Garn-St Germain Depository Institutions Act of 1982.

Malcolm Baldrige National Quality Award Program: H.R. 812—Public Law 100-107, approved August 20, 1987.

Establishes the Malcolm Baldrige National Quality Award Program under which awards would be presented periodically to companies for improving their product quality.

Public Debt Limit: H.R. 2360—Public Law 100-40, approved May 15, 1987.

Increases and extends the current temporary debt limit of $2.3 trillion (which expired on May 15, 1987) to $2.32 trillion until July 17, 1987, after which it will revert to the permanent level of $2.111 trillion.

H.R. 3022—Public Law 100-80, approved July 30, 1987.

Extends the temporary debt limit of $2.32 trillion (which expired on July 17, 1987) until August 6, 1987, after which it will revert to the permanent level of $2.111 trillion.

H.R. 3190—Public Law 100-84, approved August 10, 1987. (233)

Increases and extends the current temporary debt limit of $2.32 trillion (which expired on August 6, 1987) to $2.352 trillion until September 23, 1987, after which it will revert to the $2.111 trillion permanent level.

Public Debt Limit/Gramm-Rudman-Hollings: H.J. Res. 324—Public Law 100-119, approved September 29, 1987. (224, 262)

Increases the permanent debt limit to $2.8 trillion; reinstates and revises the automatic sequestration process of the original Gramm-Rudman-Hollings bill; revises the deficit targets to $144 billion for FY 1988, $136 billion for 1989, $100 billion for 1990, $64 billion for 1991, $28 billion for 1992, with a $10 billion cushion for each of those fiscal years and a balanced budget by 1993; revises the timetable for sequestration; sets the maximum sequester at $23 billion in 1988 and $36 billion in 1989, and an amount necessary to reach the fixed deficit targets each year thereafter, with limitations on the amounts that an account can be cut by a sequester; prohibits the use of asset sales and date shifting as deficit reduction tools; requires the use of one set of economic assumptions when considering the Congressional budget resolution; grants OMB the authority to make the final determination of the sequester order; establishes expedited procedures for Congressional modification of the final sequester order if Congress disagrees with OMB's determinations; allows the President to exempt military personnel from sequester if he notifies Congress by a date certain; specifies that the total amount sequestered from defense cannot be modified; permits the President to submit a single proposal to Congress to redistribute defense reductions within and across defense accounts; prohibits any increase in a defense program, project, or activity above the appropriated level; and requires Congressional affirmation of the President's defense sequestering proposal by an amendable joint resolution considered under expedited procedures.

SBA Authorization: H.R. 2166—Public Law 100-72, approved July 11, 1987.

Makes minor amendments, without any net increase in budget authority, to SBA program levels and authorizations as follows: increases by $108 million, to $1.25 billion, the FY 1988 Surety Bond Guarantees Program level; requires that $425 million of the $450 million previously authorized for guarantees of debentures issued by development companies in each of FY 1987-88 be sold to private investors rather than to the Federal Financing Bank; and authorizes $16 million for the pollution control contract guarantees program to pay losses on previously issued guarantees.

SEC Authorization and Securities Law Amendments: S. 1452—Public Law 100-181, approved December 4, 1987.

Authorizes $158.6 million in FY 1987 and $172.2 million in 1988 for the Securities and Exchange Commission (SEC); clarifies and expands the enforcement capabilities of the SEC and other Federal regulatory agencies for registered transfer agents and their associated professionals; authorizes the SEC to delegate its functions to an SEC division, individual Commissioner, administrative law judge, or employee or employee board, with the SEC to retain a discretionary right to review any actions taken by the delegated authority; limits funding and adds reporting and certification requirements for the SEC regarding the ongoing development of the Electronic Data Gathering Analysis and Retrieval project; and makes technical, clarifying, and conforming amendments to securities laws, including provisions to eliminate the requirement that regulated savings and loans and similar institutions limit their fees for issuing securities to three percent of the security's face value in order to qualify for registration exemption; and codifies the SEC's authority to bring administrative proceedings against persons that are, or seek to be, associated with a broker-dealer, municipal securities dealer, or investment adviser at the time they commit an alleged Federal securities violation.

Small Business Investment Act Loan Prepayments: S. 437—Passed Senate December 19, 1987.

Amends the Small Business Investment Act of 1958 to permit prepayment of State and local development company loans financed through the sale of debentures purchased by the Federal Financing Bank (FFB) and permits the FFB to impose a prepayment penalty on issuers of debentures who elect to pay them before maturity.

Thrift Savings Fund Investment Procedures: S. 1177—Public Law 100-43, approved May 22, 1987.

Permits the Treasury Department to make up any loss of earnings to the Federal Employee's thrift savings plan resulting from suspension of Treasury's borrowing authority because the debt limit has been reached.

EDUCATION

Elementary and Secondary Education Improvement: H.R. 5—Passed House May 21, 1987; Passed Senate amended December 1, 1987; Senate insisted on its amendments and requested a conference December 1, 1987. (390)

Reauthorizes through FY 1993 the following Federal elementary and secondary education programs: Chapter 1 of the Education Consolidation and Improvement Act (ECIA), compensatory education for disadvantaged children (formerly Title I of the Elementary and Secondary Education Act), Chapter 2 of ECIA, elementary and secondary education block grants to States, the Magnet Schools Assistance Program, the Impact Aid Program, the Adult Education Act, the Education for Economic Security Act, the Bilingual Education Act, the Women's Educational Equity Act, and the Allen J. Ellender Fellowship Program, and the territorial assistance programs for teacher training and for general assistance to the Virgin Islands; targets additional Chapter 1 funds to preschool and secondary school levels; creates new programs to address the needs of at-risk students, national priorities, and program quality and innovation; authorizes multiyear funding for comprehensive child development projects which provide support services to benefit the infants and young children of low-income families; and bans "dial-a-porn" operations.

Higher Education—Technical Amendments: H.R. 1846—Public Law 100-50, approved June 3, 1987.

Makes the following technical and clarifying amendments to the 1986 Higher Education Act amendments: clarifies the discretionary authority of financial aid administrators to make student aid eligibility determinations on a case-by-case basis; modifies the needs analysis provisions and mandates the simplification of the needs analysis application form; allows schools to submit guaranteed loan applications to financial institutions, but requires the applicant to indicate his/her choice of lender; makes certain nondegree candidates eligible for Guaranteed Student Loans (GSL's); requires loan counseling for loan consolidations; and directs the Advisory Commission on Student Financial Assistance to study multiple applications processing and the appropriateness of reinstating limitations on schools which want to serve as lenders in the GSL program.

Native Hawaiians Education Improvement: S. 360—Passed Senate April 22, 1987.

Authorizes $9.9 million for supplemental education programs to benefit Native Hawaiians, including implementation of model educational curricula, the establishment of family-based preschool education centers, higher educations programs, and gifted, talented, and special education programs.

Quality Daily Physical Education for Schoolchildren: H. Con. Res. 97—Action Completed December 11, 1987.

Encourages State and local governments and educational agencies to provide high quality daily physical education programs for all children in kindergarten through grade 12.

Secondary School Graduation Requirements: S. Con. Res. 92—Senate agreed to December 1, 1987.

Encourages State and local governments and educational agencies to include among the requirements for secondary school graduation a thorough knowledge and understanding of the U.S. founding documents.

Star Schools Program: S. 778—Passed Senate April 23, 1987. (80)

Authorizes $100 million over FY 1988-92 for the Star Schools Program under which demonstration grants would be awarded to certain State and multistate telecommunications partnerships to use telecommunications technology to deliver courses to elementary and secondary schools in mathematics, science, and foreign languages and possibly other subject areas; limits annual appropriations to $60 million and individual grants to $20 million; makes Bureau of Indian Affairs schools eligible for telecommunications partnerships; reserves 50 percent of annual appropriations for Chapter I eligible elementary and secondary school districts; further targets the funding to the neediest children within the Chapter I districts; gives priority to network partnerships which serve multiple States, secure the cooperation of public and private educational institutions, State and local governments, and industry in planning the network, or will serve the broadest range of institutions; requires an equitable geographic distribution of grants; and requires the Office of Technology Assessment, upon request, to evaluate the telecommunications networks supported by the demonstration grants and to study the feasibility of building and launching a satellite dedicated to educational purposes.

White House Conference on Libraries and Information Sciences/Education Program Amendments: H.J. Res. 90—Passed House June 8, 1987; Passed Senate amended December 15, 1987.

Authorizes $5 million, to be funded only from title III of the Library Services and Construction Act, for a White House Conference on Library and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991, to provide recommendations for improving the Nation's library and information sciences; reauthorizes the Drug Free Schools and Communities Act at $250 million in FY 1989, and such sums as necessary in 1990-93; authorizes an additional $3 million for the Constitutional Bicentennial Education Program to train elementary and secondary

teachers in history, geography, and subjects related to the U.S. Constitution; modifies the Income Contingent Loan Demonstration Program to permit the participation of 10 additional institutions, including a consortia of institutions within a State, permit higher education institutions to pay students' in-school interest on student loans, make professional and graduate students eligible for the program, and decrease the interest rate from the Treasury bill rate plus three percent to the Treasury bill rate plus .05 percent; requires Guaranteed Student Loan (GSL) guaranty agencies to share information with colleges concerning former students in default on their GSL loans; and authorizes $15.2 million for special projects at various higher education institutions.

ENERGY

Continental Scientific Drilling and Exploration: S. 52—Passed Senate June 17, 1987.

Directs the Secretaries of Energy and Interior and the Director of the National Science Foundation to cooperate in implementing a Continental Scientific Drilling Program (CSDP) to enhance the fundamental understanding of the composition, structure, dynamics, and evolution of the continental crust and its effect on natural phenomena and report to Congress, within 180 days of enactment, on the CSDP including long- and short-term policy objectives, projected schedules of certain scientific and engineering events, the extent and duration of resources and funding required, possible program benefits, and other information or recommendations deemed appropriate.

Energy Standards for Appliances: S. 83—Public Law 100-12, approved March 17, 1987. (28)

Establishes national energy conservation standards for major residential appliances.

Ethanol Cost Effectiveness Study Extension: S. 1597—Public Law 100—100, approved August 18, 1987.

Amends the Farm Disaster Assistance Act of 1987 to extend the reporting date for the ethanol cost-effectiveness study from 90 to 180 days.

Federal Energy Management Program: S. 1382—Passed Senate December 18, 1987.

Strengthens efforts to promote the conservation and efficient use of energy by the Federal government by requiring Federal agencies to establish incentive programs under which an agency would be permitted to retain all savings resulting from its energy efficiency improvement efforts; establishing discretionary energy conservaton targets for Federal buildings and automobiles; establishing a Federal Energy Management "Task Force" to collect and disseminate relevant energy efficiency information within the Federal government; allowing for a discount rate under National Energy Conservation and Policy Act (NECPA) as determined by the Secretary and assuring that life cycle cost calculations will accurately reflect present values; and consolidating the reporting requirements of the Energy Policy and Conservation Act and the NECPA with regard to Federal energy management.

Federal Onshore and Indian Oil and Gas Lease Royalty Payments: H.R. 3479—Passed House November 3, 1987; Passed Senate amended December 9, 1987; House agreed to Senate amendment with an amendment December 18, 1987.

Allows the Secretary of the Interior to clarify the amount of royalty payments owed for gas produced from certain onshore Federal and Indian leases from January 1, 1982, through July 31, 1986; authorizes the collection of any royalty underpayments; provides for the refund of royalty overpayments up to a total of $2 million from future Federal mineral receipts; and requires a case-by-case review of royalties payable, in accordance with lease terms and applicable regulations, and that claimants provide written documentation of royalty payments.

Powerplant and Industrial Fuel Use: S. 85—Passed Senate April 8, 1987; H.R. 1941—Public Law 100-42; approved May 21, 1987.

Amends the Powerplant and Industrial Fuel Use Act of 1987 (FUA) (P.L. 95-620) to repeal the prohibition on the use of natural gas or petroleum as the primary fuels used in new electric powerplants or in new large industrial boiler facilities; substitutes, for the FUA requirement that all new electric powerplants be capable of using coal or another alternative fuel, a requirement that new electric baseload powerplants have the design capability to be converted from natural gas or oil to coal, or another alternative fuel, as market conditions warrant; repeals several provisions including the discretionary authority of the Secretary of Energy to prohibit the boiler use of natural gas for space heating, the ban on the use of natural gas for outdoor decorative lighting, restrictions on increased petroleum use by certain existing powerplants which have used coal or another alternative fuel as a primary energy source, optional compliance mechanisms for certain existing electric powerplants and annual reporting requirements with respect to domestic coal reserves and Federal agency compliance under the Act; and amends the Natural Gas Policy Act of 1978 (P.L. 95-621) to repeal the incremental pricing requirements in Title II.

Strategic Petroleum Reserve (SPR) Security: S. 836—Passed Senate June 25, 1987.

Authorizes the Department of Energy to arm its protective force personnel at SPR sites and to empower them in certain instances to make arrests without warrants for violations of Federal law, and establishes a Federal offense of trespass on Federally-owned SPR sites.

ENVIRONMENT

Clean Water: H.R. 1—Vetoed January 30, 1987. House overrode veto February 3, 1987; Senate overrode veto February 4, 1987; Became Public Law 100-4, February 4, 1987, without approval. (4, 19)

Authorizes a total of $18 billion through FY 1994 for water treatment projects of which $8.4 billion is for a new revolving fund to provide loans to States for up to 100 percent of a project's cost (funded from 1989-94) and $9.6 billion is for the Title II construction grant program (funded from 1986-90); provides a process for States to develop and implement programs for control of nonpoint source pollution allowing them to use both grants and revolving funds for this purpose and earmarks $400 million over four years for nonpoint source pollution remedies; authorizes an increased Federal share for certain wastewater treatment projects; and makes various amendments to the construction grant program and the standards and enforcement provisions of the Act.

National Fish and Wildlife Foundation: S. 1389—Passed Senate December 18, 1987.

Amends the National Fish and Wildlife Foundation Establishment Act to expand the role of the National Fish and Wildlife Foundation to include participation with foreign governments, entities, and individuals to conserve fish, wildlife, and plants in other countries and to allow the Foundation to conduct business abroad and use Federally-appropriated funds for projects in other countries; authorizes an increase in the Foundation's appropriations from $1 million over 10 years to $5 million annually in FY 1988-92 in order to match private and other non-Federal contributions and to provide administrative services; and places restrictions on the use of Federal funds for land acquisition to protect the Federal interest in any lands acquired with Federal matching funds and to prevent the Foundation from becoming a significant Federal land-holding entity.

NOAA—Satellite Program Authorization: S. 1667—Passed Senate September 10, 1987; Passed House amended November 20, 1987.

Authorizes a total of $848.2 million for FY 1988, and $1.0 billion for 1989 for atmospheric, satellite, and environmental data programs of the National Oceanic and Atmospheric Administration.

NOAA—Sea Grant Program: S. 1196—Passed Senate August 5, 1987.

Authorizes $250 million in FY 1988-92 for NOAA's National Sea Grant core program, $5 million for the Sea Grant international program, and $64 million for a new Strategic Marine Research Program with program spending limited to 50 percent of appropriations for the National Sea Grant College Program Act; expands fellowship eligibility to postgraduates; requires that grant administration minimize Federal prior approval requirements; and clarifies activities authorized under the international program.

Organotin-Based Antifoulant Paint Control: H.R. 2210—Passed House November 9, 1987; Passed Senate amended December 11, 1987; House agreed to Senate amendment with an amendment December 18, 1987.

Prohibits the use of organotin-based paints for any vessel 25 meters or less, except for aluminum boats and outboard motors; prohibits the use of all organotin paints with a release rate of more than three micrograms per centimeter per day and sunsets the established release rate if the EPA takes final action to establish a release rate under alternative legislative authority; bans the sale of the organotin tributyltin for the purposes of making an antifouling paint; requires the EPA Administrator to monitor coastal waters and assist the States in monitoring waters for the presence of organotins; and requires the Secretary of Navy to test the home port waters of Navy ships for organotin contamination.

Surface Mining Control and Reclamation: H.R. 1963—Public Law 100-34, approved May 7, 1987.

Amends the Surface Mining Control and Reclamation Act of 1977 (SMCRA) to permit States to set aside in a special trust fund up to 10 percent of their annual appropriated allocations of Abandoned Mine Land Reclamation Funds for future abandoned mine reclamation; and repeals the provision exempting surface coal mining operations that affect two acres or less and extract coal for commercial purposes from all provisions of SMCRA.

FISHERIES

Commercial Fishing Vessel Anti-Reflagging: H.R. 2598—Passed House November 9, 1987; Passed Senate amended December 17, 1987.

Amends the Magnuson Fishery Conservation and Management Act to make changes to the vessel documentation laws to prohibit foreign-built and foreign-rebuilt vessels from operating as U.S. vessels in the processing, storing, transporting or catching of

fish in the U.S.'s 200-mile exclusive economic zone or navigable waters; contains transition provisions to lessen the impact on the owners and operators of affected vessels; and requires a U.S. flag fishing vessel, regardless of its port of departure, to comply with the Immigration and Nationality Act for all members of its crew.

Documentation of Foreign-Built Fish-Processing Vessels: S. 1591—Public Law 100-111, approved August 20, 1987.

Prohibits until October 15, 1987, the certification of any application submitted after July 20, 1987, for the documentation of a foreign-built fish-processing vessel.

Fishermen's Protective Act: H.R. 2893—Public Law 100-151, approved November 3, 1987.

Reauthorizes until October 1, 1988, the fishermen's guaranty fund, which is a self-insurance program under which fishing vessel owners are reimbursed for certain losses resulting from the improper seizure of U.S. fishing vessels by foreign countries; extends from October 15, 1987, until November 15, 1987, the prohibition on the certification of any application submitted after July 20, 1987, for the documentation of a foreign-built fish-processing vessel; and extends until October 22, 1989, the authority for the non-profit group Life International to use three surplus Naval vessels for worldwide humanitarian services and removes the restriction that the vessels be used only to assist developing countries in order to allow domestic use.

International Fishery Agreement with Japan/Marine Pollution: H.R. 3674—Public Law 100- , approved , 1987.

Brings into effect the Governing International Fishery Agreement between the U.S. and Japan that was reported by the President to the Congress on November 17, 1987; implements Annex V to the International Convention for the Prevention of Pollution from Ships, including provisions to regulate the disposal of plastics both at sea and port reception facilities; reauthorizes and amends the National Sea Grant College Program Act; establishes a mechanism for monitoring, assessing, and controlling driftnet fishing on the high seas; and provides for the operation of certain sludge and launch barges in the U.S. Exclusive Economic Zone.

U.S.-Korea International Fisheries Agreement Extension: H.R. 2480—Public Law 100-66, approved July 10, 1987.

Extends from July 1, 1987, to November 1, 1987, the governing international fishery agreement between the U.S. and Korea, and confirms the legal status of the one-year Congressional and executive branch fellowships awarded under the Sea Grant Act.

GENERAL GOVERNMENT

Abandoned Shipwrecks: S. 858—Passed Senate December 19, 1987.

Asserts Federal title to certain abandoned shipwrecks and transfers title to the State on whose submerged lands the shipwreck is located unless the shipwreck lies within the boundaries of lands administered by the National Park Service (NPS); and directs the NPS to develop guidelines on managing shipwrecks and providing public access.

Christopher Columbus Quincentenary Amendments: H.R. 2309—Public Law 100-94, approved August 18, 1987.

Increases the annual contribution limitations for individuals and corporations to $250,000 and $1 million, respectively; permits broader use of the Christopher Columbus Quincentenary Logo; adds a third nonvoting member from a Caribbean country to the Commission; and extends the Commission's termination date from November 15, 1992, until December 13, 1993.

Computer Matching and Privacy Protection: S. 496—Passed Senate May 21, 1987.

Allows Federal agencies to enter into computer matching agreements and establishes criteria and procedures for their implementation; requires participating Federal agencies to establish internal Data Integrity Boards; and prohibits an agency from terminating any person's benefits or taking other adverse action without verifying the relevant matching data and providing the individual an opportunity to contest the data.

Contracts Disputes Amendments: S. 345—Passed Senate May 21, 1987.

Requires the competitive selection of Board of Contract Appeals members (BCA judges) and provides for their removal only if "good cause" can be shown at a hearing before the Merit Systems Protection Board; and exempts BCA judges from agency performance evaluations and provides for guaranteed periodic salary increases.

Jazz Designated a National Treasure: H. Con. Res. 57—Action completed December 4, 1987.

Designates jazz as an American national treasure.

Librarian of Congress Emeritus; S. 1020—Public Law 100-83, approved August 4, 1987.

Creates the Office of Librarian of Congress Emeritus and provides that each duly appointed Librarian of Congress shall, upon retirement, be designated Librarian of Congress Emeritus.

National March—"Stars and Stripes Forever": S. 860—Public Law 100-186, approved December 11, 1987.

Designates "The Stars and Stripes Forever" as the national march of the U.S.

NASA Authorizations: S. 2741—Public Law 100-147, approved October 28, 1987.

Authorizes $9.6 billion for NASA activities in FY 1988 of which $3.7 billion is for research and development, $4.0 billion is for space flight control and data communications, $216.4 million is for facilities construction, and $1.6 billion is for research and program management; includes $767 million to initiate development of the space station and contains language ensuring that the station will be used for peaceful purposes with a prohibition on its use to place nuclear or other mass destruction weapons into orbit; calls for the development of an advanced solid rocket motor; and restates the statutory provision permitting NASA to accept donations for the construction of a space shuttle orbiter.

Olympic Games Commemorative Coins: S. 2741—Public Law 100-141, approved October 28, 1987.

Authorizes the minting of commemorative coins to support the training of American athletes participating in the 1988 Olympic Games.

Prompt Payment Act: S. 328—Passed Senate October 9, 1987. (318)

Amends the Prompt Payment Act of 1982 to require the Federal government to automatically pay interest on overdue payments; extends coverage of the Act to subcontractors under Federal construction contracts, Commodity Credfit Corporation operations, and contract payments for dairy products, and edible fats and oils, and their food products; and establishes a Presidential Advisory Panel for Coordination of Government Debt Collection and Delinquency Prevention Activities.

Public Buildings Authorizations: *S. 1502—Passed Senate July 23, 1987.*

Authorizes $2.93 billion in FY 1988 for the GSA's Public Buildings Service which includes repair and alterations, design and construction services, leasing, real property operations, and construction and acquisition.

U.S. Golf Association Rules: S. Res. 247—Senate agreed to July 10, 1987.

States the sense of the Senate that the U.S. Golf Association should review its rules and procedures and consider nondiscriminatory flexibility to allow qualified disabled individuals to effectively compete in its sanctioned tournaments.

GOVERNMENT EMPLOYEES

Air Traffic Controllers Annuity Computations: H.R. 1403—Public Law 100-92, approved August 18, 1987.

Specifies that pre-1987 service as an air traffic controller would be included in the air traffic controllers retirement annuity computations.

Federal Employees Retirement System—Technical Corrections: H.R. 1505—Public Law 100-20, approved April 7, 1987.

Makes technical corrections to the Federal Employees Retirement System (FERS) which: (1) allow prior creditable service under the Civil Service Retirement System (CSRS) to be creditable toward the 18-month service requirement for survivor's benefits under FERS for employees with more than five but less than ten years service under CSRS who die within 18 months of transferring to FERS; and (2) change, from January 1, 1988, to April 1, 1987, the thrift savings plan participation eligibility date for employees who were automatically covered under FERS on January 1, 1987, but did not have CSRS contributions withheld during 1984-86.

Federal Pay Increase Disapproval: S.J. Res. 34—Passed Senate January 29, 1987. (9)

Disapproves the automatic salary increase for Members of Congress, Federal judges, and top executive branch officials, as recommended by the President in his FY 1988 Budget, transmitted to Congress on January 5, 1987. NOTE: (The proposed pay increase [under which salaries of Members of Congress would be raised from $77,400 to $89,500] automatically becomes effective on March 1, 1987, unless a joint resolution of disapproval is passed by both Houses and signed into law by the President within 30 days. The 30-day period expired at midnight, February 3, 1987. The House did not disapprove the pay increase until February 4, 1987.)

Federal Pay Increase Rescission: S.J. Res. 42—Passed Senate February 4, 1987.

Rescinds the salary increase for Members of Congress, Federal judges, and top executive branch officials, as recommended by the President in his FY 1988 Budget, transmitted to Congress on January 5, 1987, and which became effective on February 4, 1987.

Library of Congress Security Employees: H.R. 2249—Public Law 100-135, approved October 16, 1987.

Change the title of employees designated by the Librarian of Congress for police duty and makes their rank and pay the same as the Capitol Police.

Postal Service employee Appeal Rights: H.R. 348—Public Law 100-90, approved August 18, 1987.

Extends the right of appeal adverse personnel actions to the Merit Systems Protection Board to nonveteran postmasters and supervisors and Postal Service employees engaged in confidential personnel work with one year of continuous service.

Residence/Travel Expense Reimbursement of Federal Employees: S. 1750—Passed Senate October 8, 1987.

Liberalizes certain provisions authorizing reimbursement for expenses of the sale and purchase of a transferred Federal employee's residence, and provides for the payment of certain travel and transportation expenses of civil service career appointees.

Retirement System Technical Corrections: H.R. 3395—Passed House October 19, 1987; Passed Senate amended December 19, 1987.

Makes numerous amendments, generally technical in nature, to provisions of law relating to the Civil Service Retirement System (CSRS), the Federal Employees Retirement System (FERS), the Foreign Service Retirement System (FSRS), and the Foreign Service Pension System (FSPS) in order to address problems discovered during implementation of the Federal Employees' Retirement System Act of 1986 (FERSA).

Tuscon Wage Area Pay Retention: S. 942—Public Law 100-47, approved May 29, 1987.

Makes Federal wage employees in the Tucson, Arizona, wage area whose salaries were reduced as a result of a wage survey conducted during FY 1986 eligible for pay retention retroactive to the effective date of the reduction.

HEALTH

Acquired Immune Deficiency Syndrome (AIDS): S. Res. 190—Senate agreed to April 10, 1987.

States the sense of the Senate that the Nation makes a major commitment of resources consistent with the National Academy of Science's recommendation for health care, research, and education relating to AIDS, and that a Presidential Commission be created to assist in establishing priorities and developing comprehensive plans to deal with the domestic and international problems relating to AIDS.

Asbestos School Hazard Abatement: H.J. Res. 153—P.L. 100-11, approved March 17, 1987.

Requires EPA to award Asbestos School Hazard Abatement program grant and loans in time to ensure that eligible local educational agencies can complete asbestos abatement work in schools during the 1987 summer recess.

Developmental Disabilities Assistance and Bill of Rights Amendments: S. 1417—Public Law 100-146, approved October 29, 1987.

Updates terminology in the Act to focus on the competence and preferences, rather than the limitations, of developmentally disabled persons, and amends the Act as follows: the basic State grant program—authorizes $209.5 million in FY 1988-90; increases the minimum State allotment to $350,000, when appropriations reach $60 million; clarifies and strengthens the independence of State Planning Councils and requires the Councils to review the scope and effectiveness of State services provided to developmentally disabled persons; and increases State flexibility in determining program priorities; protection and advocacy system—authorizes $66.2 million in FY 1988-90; increases the minimum State allotment to $200,000, when appropriations reach $20 million; requires that State systems address the needs of racial and ethnic minorities, establish a grievance procedure, provide for public comment on established system priorities, and be authorized to investigate reported incidences of abuse and neglect and pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection and advocacy for developmentally disabled persons; university affiliated programs (UAP's)—authorizes $30.6 million in FY 1988-90 for existing UAP's and $15 million in FY 1988-90 for training grants in areas of emerging national significance related to developmentally disabled persons; allows the use of funds to study the feasibility of establishing new UAP's and satellite centers and directs the Secretary of HHS to consider expanding into unserved States; and requires that a UAP applicant demonstrate coordination between its activities and those conducted under the State plan; projects of national significance—authorizes $3.65 million annually in FY 1988-90 for the Secretary of HHS to make grants to, or contract with, agencies and nonprofit entities for projects of national significance related to developmentally disabled persons and to educate policymakers, develop a data collection system, determine the feasibility of developing a nationwide information and referral system, and pursue interagency initiatives and other projects which expand opportunities for the developmentally disabled.

Infant Mortality: S 1441—Passed Senate August 6, 1987.

Increased the FY 1988 authorization for Migrant Health Centers by $3 million and for the Community Health Centers program by $35 million to expand and improve maternal and child health services to combat high rates of infant mortality; requires the Secretary of HHS, to give priority to rural areas designated as frontier areas and to use FY 1988 appropriations in excess of $418 million for grants to support special prenatal services and coordinated projects; increases the FY 1988 authorization for the Area Health Education Centers program by $3 million and requires that an equal amount of FY 1988 appropriations be used for contracts to support programs to train maternal and child health care personnel to work in underserved areas, frontier areas, the Pacific Basin region, and areas with disproportionately high infant mortality and low birthweight rates; and authorizes $4 million in FY 1988 for a new grant program for nonprofit nursing schools to operate fellowship programs for training nurse midwives and pediatric, family obstetric, and gynecologic nurse practitioners with priority given to applicants employed by Community, Migrant Health, Indian, or Native Hawaiian health centers.

Minority Health Education: S. 769—Public Law 100-97, approved August 18, 1987.

Authorizes $10 million in FY 1988, and such sums as necessary in 1989-91, to the Secretary of HHS for grants to centers for minority health professions education.

Nursing Shortage Reduction: S. 1402—Passed Senate August 5, 1987.

Establishes initiatives to reduce nursing shortages including, a special advisory committee of health care professionals to develop long-term solutions to the problems of recruiting and retaining professional nurses; a matching grant to a nonprofit private entity to demonstrate and evaluate innovative hospital nursing practice models designed to reduce vacancies in hospital nursing positions; grants and contracts with collegiate nursing schools to demonstrate and evaluate innovative nursing practice models to provide long-term health care; and grants and contracts to develop, establish, and operate regional model professional nurse recruitment centers.

Physician Comparability Allowance Extension: S. 1666—Public Law 100-140, approved October 26, 1987.

Reauthorizes the Federal Physicians Comparability Allowance Act through FY 1991; increases the minimum annual physicians comparability allowance from $7,000 to $10,000 and the maximum allowance from $10,000 to $20,000; and provides special pay for psychologists in the commissioned corps of the Public Health Service.

Public Health Service Amendments: S. 1158—Public Law 100-177, approved December 1, 1987.

Reauthorizes programs and activities under Title II of the Public Health Service Act for three years through FY 1990 which include the National Center for Health Services Research and Health Care Technology, the National Center for Health Statistics, immunization grants, vaccine stockpiles, tuberculosis grants, the National Health Service Corps (NHSC), the Council on Health Care Technology, and NHSC Scholarships; authorizes the Centers for Disease Control to maintain a six-month vaccine stockpile; establishes a NHSC Loan Repayment Program to pay up to $20,000 of a health care provider's student loans in exchange for service in a Corps health manpower shortage area, and authorizes the Secretary to make loans to a Corps member who agree to enter into full-time private practice in a health manpower shortage area; authorizes a new three-year NHSC grant program for State loan repayment programs; requires the Secretary of HHS, in assigning Corps personnel, to give priority to the Indian Health Service, and in assigning NHSC family practitioners, to consider the geographic isolation of the area, the economic need of the population, and the infant mortality rate; and prohibits the discharge in bankruptcy of any payback requirement under the NHSC Scholarship Program unless the Bankruptcy Court finds that nondischarge would be unconscionable.

Radon Program Development: S. 744—Passed Senate July 8, 1987.

Directs EPA to assist States in developing and implementing radon programs and authorizes $10 million annually in FY 1988-90 for State grant assistance; authorizes $1.5 million to expand and improve EPA's radon training and proficiency testing programs and $1.5 million for an EPA survey of radon contamination in public schools; and requires the Department of Agriculture, Interior, and Defense, the GSA and VA to conduct studies on radon contamination in Federal buildings.

HOUSING

Ginnie Mae Guaranty Fee Limitation: H.R. 1056—Public Law 100-14, approved March 24, 1987.

Limits to six basis points the fee that the Government National Mortgage Association (Ginnie Mae) may charge for the guaranty of mortgage-backed securities insured by the FHA, VA, or FmHA.

Housing and Community Development Programs Extension: S. 825—Public Law 100- , approved , 1987. (49)

Extends for through FY 1989 programs authorized under the Housing and Community Development Act of 1974; and makes other modifications to the Act.

S.J. Res. 191—Public Law 100-122, approved September 30, 1987.

Extends through October 31, 1987, certain programs authorized under the Housing and Community Development Act of 1974, including the Federal Housing Administration Mortgage Insurance Programs, the Rehabilitation Loan Program, the Rural Housing Programs, the Community Development

Block Grant Program, and the contract authority for the National Flood Insurance policies; also extends through October 31, 1987, the Solar Energy and Energy Conservation Bank authorization, the authority for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to purchase second mortgages, the limitation on amounts to be insured under the National Housing Act, and the Farmers Home Administration prepayment moratorium.

S.J. Res. 209—Public Law 100-154, approved November 5, 1987.

Provides an additional extension, through November 15, 1987, for the programs authorized under the Housing and Community Development Act of 1974, and previously extended under Public Law 100-122, which expired on October 31, 1987.

S.J. Res. 220—Public Law 100-170, approved November 18, 1987.

Provides an additional extension, through December 2, 1987, for the programs authorized under the Housing and Community Development Act of 1974, and previously extended under Public Law 100-154, which expired on November 15, 1987.

H.J. Res. 404—Public Law 100-179, approved December 3, 1987.

Provides an additional extension, through December 16, 1987, for the programs authorized under the Housing and Community Development Act of 1974, and previously extended under Public Law 100-170, which expired on December 2, 1987.

H.J. Res. 427—Public Law 100- , approved , 1987.

Provides an additional extension, through March 15, 1988, for the programs authorized under the Housing and Community Development Act of 1974, and previously extended under Public Law 100-179, which expired on December 16, 1987.

Section 515 Prepayment Moratorium: S. 1430—Passed Senate June 26, 1987.

Imposes a moratorium until January 1, 1988, on prepayments under section 515 of the Housing Act of 1949, unless the loan was made or insured (1) at least 20 years prior to the date of prepayment, or (2) made or issued pursuant to a contract entered into before December 21, 1979, and the Secretary determines that the prepayment or refinancing will not result in a substantial rent increase or the displacement of tenants.

INDIANS

Alaska Native Claims Settlement: H.R. 278—Passed House March 31, 1987; Passed Senate amended October 30, 1987.

Amends the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the Act.

Brown-Stevens Act Repeal: H.R. 2639—Public Law 100- , approved , 1987.

Repeals the Brown-Stevens Act which authorizes State and local taxation of Indian allotted lands on the Omaha and Winnebago Indian Reservations in Nebraska, retroactive to January 1, 1951, and extends for one year until March 12, 1989, the deadline for the Bureau of Indian Affairs to compile and publish the final list of land allotments or interests within certain claim categories on the White Earth Indian Reservation.

Cow Creek Band of Umpqua Indians Judgment Fund Distribution: H.R. 1567—Public Law 100-139, approved October 26, 1987.

Provides for the distribution and use of the $1.5 million (already appropriated) judgment awarded to the Cow Creek Band of Umpqua Indians in Oregon; provides for the funding of various tribal programs and expenses from the interest paid on the trust fund including elderly assistance, higher education and vocational training, housing assistance, and economic development programs; and provides guidelines for establishing the tribal membership, governing documents, and the governing body of the tribe.

Gay Head Indian Lands Settlement: H.R. 2855—Public Law 100-95, approved August 18, 1987.

Settles the land claims of the Wampanoag Tribal Council of Gay Head, Inc. in the town of Gay Head, Massachusetts, by providing that certain lands will be transferred to, or acquired for, the Council by the Federal government and the State of Massachusetts and authorizes $2.2 million of the Federal share of land acquisition costs.

Indian Health Service (IHS) Clinical Staffing Recruitment and Retention: S. 1475—Passed Senate November 18, 1987, 1987.

Directs the Secretary of HHS to establish and implement a staff recruitment and retention program which will ensure an adequate supply of clinical staff for the Indian Health Service (IHS), including a loan repayment program which would authorize the IHS to recruit health professionals who agree to serve with the IHS and receive up to $25,000 in student loans per year in exchange for each year of obligated service, and programs, to enhance personnel recruitment and retention which include a retention bonus of $12,000 to $25,000 per contract year for employees who commit to additional years of service after three years; establishes an advisory panel of health professionals to review and report on policies and procedures, including pay scales, which impede recruitment and retention; and extends the Federal Tort Claims Act to Indian tribes or tribal organizations having contracts with HHS to operate IHS facilities or health delivery programs.

Indian Financing: S. 1360—Passed Senate November 17, 1987.

Amends the Indian Financing Act of 1974 to: increase the loan guarantee authority ceiling from $200 million to $500 million; raise the ceiling on loans to individual Indians or economic enterprises from $350,000 to $500,000; eliminate the restriction on the sale or assignment of loans only to State or Federally-regulated banks; require the Secretary of the Interior to seek supplementary appropriations if insufficient funds are available to pay losses on the guaranteed loan program; and permit surety bond guarantees of up to 90 percent of the contract amount, proportionate to the percentage of Indian ownership, or a maximum $1.25 million.

Indian Fishing Rights: S. 727—Passed Senate May 13, 1987.

Specifies that income derived by Indians from the exercise of fishing rights secured by treaty, Executive Order, or act of Congress is tax exempt.

La Jola, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians, California, Water Rights Claims Settlement: S. 795—Passed Senate December 19, 1987.

Provides for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, and for a sufficient amount of water to be made available in the San Luis Rey River basin to satisfy the needs of all water users.

Laws Relating to Indians—Technical and Minor Amendments: H.R. 293—Public Law 100-153, approved November 5, 1987.

Makes miscellaneous technical and minor amendments to various statutes relating to Indians.

Seminole Indian Land Claims Settlement, Florida: S. 1684—Public Law 100- , approved , 1987.

Settles a dispute arising out of a State grant of a water flowage easement over lands in the East Big Cypress State Reservation of the Seminole Tribe of Florida.

Ysleta del Sur Pueblo, Alabama, and Coushatta Tribes of Texas Restoration: H.R. 318—Public Law 100-89, approved August 18, 1987.

Restores the Federal trust relationship to the Alabama and Coushatta Indian Tribes and the Ysleta del Sur Pueblo Tribe located in Texas.

INTERNATIONAL (SEE ALSO TREATIES)

Anti-Drug Effort Certifications Disapproval—Panama: S.J. Res. 91—Passed Senate April 3, 1987.

NOTE: (On the same day, the Senate tabled similar resolutions with respect to Mexico and the Bahamas.) (63)

Disapproves the President's certification, as required by Section 481(h) of the Foreign Assistance Act of 1961, that Panama has cooperated fully in matters related to drug interdiction and eradication efforts and in preventing and punishing the laundering of drug-related profits or moneys. NOTE: (Under the Anti-Drug Abuse Act of 1986 (P.L. 99-570) the President is required to certify to Congress by March 1 of each year that 24 specified countries, which are recipients of U.S. aid, have in the past year cooperated fully with the U.S. in its effort to eradicate the drug problem or be subject to stiff sanctions, including a 50 percent reduction in U.S. foreign aid. The Act further provides for Congressional disapproval of any certification by passage of a joint resolution of disapproval, within 30 calendar days of its receipt, under expedited procedures. The President submitted the required certification with respect to Panama on March 1. Because Congress did not act before the expiration of the 30-day period, or April 2, the disapproval resolution would have no punitive effect.)

Arias Nobel Peace Prize: S. Con. Res. 83—Senate agreed to October 15, 1987.

Congratulates President Arias as the recipient of the Nobel Peace Prize; recognizes the August 7 Guatemala Peace Accord as an historic achievement; urges the parties to the peace accord to implement its provisions in good faith; and pledges Congressional support and full cooperation with respect to the good faith implementation of the August 7, 1987, Central America peace agreement.

Arms Control and Disarmament Agency (ACDA) Authorization: H.R. 2689—Public Law 100-. , approved , 1987.

Authorizes $29 million for the ACDA in FY 1988 (the same as its FY 1987 level) and $29.8 million in 1989; earmarks $780,000 for external research on possible new systems, devices, and capabilities for arms control verification; limits funding for other external research programs to a total of $3 million and $1.560 million for each project; earmarks $7.063 million for expenses related to the Geneva negotiations and $310,000 for the William C. Foster Fellows Program; requires the U.S. Commissioner of the Standing Consultative Commission to report annually to Congress on strategic arms treaty compliance questions and related issues; clarifies and expands the requirements of the annual Presidential report on compli-

ance by the U.S. and other nations with arms control agreements; requires the ACDA Director to report annually to Congress on arms control and disarmament issues including a comprehensive list of related R&D and other studies performed for and by the government; establishes an Office of the Inspector General at ACDA and requires the Inspector General to report to the ACDA Director and Congress on agency security procedures and practices.

Central American Initiative Support: S. Con. Res. 24—Senate agreed to March 12, 1987. (30)

States that Congress (1) appreciates the recent bold initiative by the heads of state of Costa Rica, El Salvador, Guatemala, and Honduras (the Arias Proposal), and congratulates them on their significant contributions toward ending armed conflict and reinforcing democracy in Central America; and (2) supports the thrust of this initiative and looks forward to the May summit meeting in Esquipulas, Guatemala.

Contra Aid Disapproval: S.J. Res. 81—Senate rejected March 18, 1987. (31)

Disapproves the provision of additional assistance ($40 million) to the Nicaraguan Democratic Resistance, pursuant to title II of the Military Construction Appropriations Act of 1987, except as provided in section 211(b) thereof within the limits of funds previously made available. NOTE: (Section 211(b) limits assistance to the Contras to humanitarian assistance, logistics advice and assistance, support for democratic political and diplomatic activities, intelligence gathering activities, and equipment and supplies necessary for defense against air attacks.)

European Community Certification of U.S. Meat Plants: S. Con. Res. 77—Senate agreed to September 18, 1987.

States the sense of the Congress that the Administration should: vigorously oppose the implementation of the European Community (EC) directive which will limit U.S. access to EC agricultural markets; adopt strong and immediate countermeasures if the EC denies U.S. meat imports based on standards which are scientifically unsubstantiated or are not applied to intracountry trade within all EC member states; and communicate to the EC that the U.S. views the directive as inconsistent with the EC's obligations under GATT.

Fiji Democracy: S. Res. 302—Senate agreed to December 18, 1987.

Expresses Senate support for the rapid return to a democratic constitutional government in Fiji; deplores the creation of any political system which would give citizens of a nation more or less political influence based simply on ethnic identity; urges the Administration to undertake vigorous diplomatic efforts to convince the current government of Fiji to return to constitutional democracy; and supports the continued cessation of U.S. foreign assistance to Fiji until it has a constitutional and democratic government.

Haitian Election Collapse: S. Res. 336—Senate agreed to December 4, 1987.

States that the Senate deplores the failure of the Haitian imterim government to bring about democratic elections; condemns the disbanding of the constitutionally mandated Provisional Electoral Council; holds the National Governing Council responsible for the attacks on innocent civilians and disruption of the election process; supports the U.S government's decision to suspend all nonhumanitarian aid to Haiti and withdraw all military training personnel; and calls on the U.S. and all nations to cut off all aid and sale of arms to the Haitian government and to provide humanitarian aid through nongovernmental organizations.

Haitian Presidential Election: S. Res. 330—Senate agreed to November 20, 1987.

States the sense of the Senate that all parties in Haiti should refrain from violence and that the National Governing Council should act on its pledge to apprehend and bring to justice persons responsible for violent attacks against the Provisional Electoral Council, the National Governing Council should cooperate with the Provisional Electoral Council to assure a free and fair election and provide security and protection to the Electoral Council and presidential candidates, and the President of the U.S. should suspend all military assistance to Haiti if the National Governing Council fails to take appropriate steps to fulfull these recommendations.

Haitian Human Rights: S. Res. 248—Senate agreed to July 30, 1987.

States the sense of the Senate that: the President should make clear U.S. support for a full and functioning democracy in Haiti; the National Council of Government should abide by the constitution which mandates an independent body to organize and conduct elections, be responsive to the conditions of U.S. economic and military assistance established in the Foreign Assistance Act of 1986 (P.L. 99-529), and redouble its efforts to demonstrate progress in investigations into past human rights abuses by the Haitian armed forces and safeguard against future abuses; the Haitian armed forces should respect human rights and exercise restraint; and all Haitians should work to avoid further violence in the transition to democracy.

Iran-Iraq Ceasefire: H.J. Res. 216—Public Law 100-96, approved August 18, 1987. (231)

States Congressional findings that continuation of the Iran-Iraq war would produce unacceptable levels of death and destruction incompatible with the humanitarian concerns and values of the American people and could result in an Iranian breakthrough which would threaten the stability of the entire region and would not be in the U.S. strategic interest; states U.S. policy in support of a ceasefire and negotiated solution to the conflict, including a withdrawal to the internationally recognized border, and the establishment of an international tribunal to investigate the origins of the conflict; and expresses the sense of the Congress that if either party to the conflict rejects peace negotiations and an internationally sanctioned ceasefire, including a withdrawal to the internationally recognized border, the U.S. should support internationally approved political and economic measures against that country and maintain existing limitations on trade.

Iranian Imports Ban: S. 1748—Senate agreed to October 6, 1987. (301)

Prohibits the importation of all products into the U.S. from Iran; permits the President to delay implementation of the prohibition for up to 180 days if he submits a report to Congress explaining his reasons for doing so and specifying how the national interest would be jeopardized by the prohibition's implementation; and makes the prohibition effective following any 180-day delay unless further extended by enactment of a joint resolution.

Korean Democracy: S. Res. 241—Senate agreed to June 27, 1987. (165)

States the sense of the Senate that the U.S.: supports Korean efforts to establish fair and free elections and peacefully evolve to a full democratic government; recognizes President Chun Doo Hwan's commitment to initiate the first peaceful transition of power in Korea by stepping down in March 1988; calls upon all parties in Korea to resume the search for peaceful democratic reform; and that the President of the U.S. should undertake all possible efforts to facilitate dialogue and negotiation among all parties to achieve democracy in the Republic of Korea.

Latvian Independence Day: S. Con. Res. 87—Senate agreed to November 6, 1987.

Supports the right of the Latvian people to peaceably assemble to commemorate important dates in their history and urges the Soviet government to allow the Latvian people to publicly commemorate their independence day on November 18, 1987, halt immediately the harassment of members of Latvian human rights groups, and release all Latvian prisoners of conscience prior to independence day; and states that the President and the Secretary of State should raise the issues of human rights and self-determination in the Baltic states during the next U.S.-Soviet summit.

Lithuanian Human Rights: S. Res. 232—Senate agreed to July 1, 1987.

Deplores Soviet denial of religious liberty and other human rights in Lithuania and elsewhere, and sends the Senate's greetings on the occasion of the 600th anniversary of Christianity in Lithuania; urges the President, the Secretary of State, and the U.S. delegation to the Vienna Review Meeting of the Conference on Security and Cooperation in Europe to continue speaking out against violations of religious liberty everywhere and specifically in Lithuania; and calls upon the Soviet Union to abide by the Universal Declaration of Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe, including the religious liberty provisions.

Montreal Protocol to Control Ozone Depleting Substances: S. Res. 312—Senate agreed to November 2, 1987.

States the sense of the Senate that the U.S. should take a leadership role and set an example for the rest of the world to protect the environment by ratifying the Montreal Protocol to Control Ozone Depleting Substances as quickly as possible and the President should immediately call upon a sufficient number of countries to ratify the Protocol so that it may enter into force.

Ozone Negotiations Resolution: S. Res. 226—Senate agreed to June 5, 1987. (147)

Urges the President to endorse the U.S. original position in ongoing international negotiations to protect the earth's ozone layer and continue to seek an immediate freeze in the production of major ozone-depleting chemicals at 1986 levels, a prompt automatic reduction of not less than 50 percent in the production of such chemicals, and the virtual elimination of such chemicals; and states that the agreement should provide for regularly scheduled assessments of scientific, economic, and technological factors.

Pakistan Assistance: S. Res. 266—Senate agreed to July 31, 1987.

Expresses the sense of the Senate in support of the President's forthcoming efforts to gain Pakistan's compliance with its past commitments, including those not to produce weapon-grade nuclear materials and urges the President to (1) inform Pakistan that its verifable compliance with these commitments is vital to further U.S. military assistance, and (2) pursue an agree-

ment by India and Pakistan for simultaneous accession to the Nuclear Non-Proliferation Treaty and acceptance of the International Atomic Energy Agency safeguards for all nuclear installations, mutual inspection of each other's nuclear installations, renunciation of nuclear weapons through a joint declaration, and the establishment of a nuclear weapons free zone in the sub-continent.

Panamanian Democracy: S. Res. 239—Senate agreed to June 26, 1987. (163)

Expresses the sense of the Senate that the Panamanian government should: restore suspended Constitutional guarantees to its people; establish genuine autonomy for civilian authorities and remove the Panamanian Defense forces from non-military activities; provide for an impartial investigation of the allegations against certain officials of the Panamanian defense forces; take specific steps to ensure free and fair elections, the establishment of an independent judicial system, and the guarantee of a professional, nonpolitical military establishment under civilian control; and in accord with the Judicial Code of Panama, direct the current commander of the Panamanian defense forces and any other implicated officials to relinquish their duties pending the outcome of the investigation.

Philippines Resolution: S. Res. 103—Senate agreed to February 19, 1987. (29)

Reaffirms U.S. Support for the government of the Philippines under the leadership of President Corazon Aquino on the occasion of the approval of the new constitution by the Philippine people; commends President Aquino for the progress toward democracy and justice she has achieved in her first year in office; and praises the continued commitment of the Philippine government and people to strengthen their democracy and achieve significant economic, political, and military reform.

Philipppine Support: S. Res. 282—Senate agreed to September 11, 1987. (241)

Sends the Senate's congratulations to the Philippine people and the loyal Philippine military for their commitment to democracy; renews the Senate's full support for the efforts of President Aquino in the development of democratic institutions and the stability in the Philippines; recognizes the overriding importance of defeating the communist insurgency and that economic recovery based on free enterprise is crucial to the attainment of a stable democracy; notes that U.S. law requires the suspension of aid if an elected head of state is overthrown; and urges the government to address the problems of corruption within the government.

Silkworm Missiles Transfer: S. Res. 84—Senate agreed to October 22, 1987.

States the sense of the Congress that: the U.S. should review all transfers of U.S. military related technology to the Peoples Republic of China until that government indicates its willingness to support an arms embargo if U.N. negotiations with Iran and Iraq fail to gain Iran's acceptance of Security Council Resolution 598; the Administration should strongly represent to the Chinese government that the continued transfer of Silkworm missiles to Iran seriously jeopardizes U.S.-China relations; and the Administration should report to Congress, within 30 days of enactment, whether such representation has been received, and the Chinese government's response.

Soviet Embassy Site: S. Res. 261—Senate agreed to July 30, 1987.

Declares that the President should void the current embassy site and construction agreements with the Soviet Union and enter into negotiations for a new agreement under which the Soviets will move their new embassy to a site in the District of Columbia that is no more than 90 feet above mean sea level.

Soviet Emigration of Individuals with U.S. Spouses: H.R. Res. 100—Public Law 100- , approved, 1987.

Welcomes the recent granting by the Soviet Union of permission to emigrate to several Soviet citizens who have been divided for many years from their American spouses and fiancés; calls upon the Soviet union to immediately grant to all those who wish to join spouses or fiancés in the U.S. permission to emigrate with their family members and to give special consideration to cases that have remained unresolved for many years.

Soviet Human rights: S. Con. Res. 8—Senate agreed to January 21, 1987. (5)

Protests continued human rights repression in the Soviet Union; declares that these abuses seriously affect the atmosphere for productive negotiations on U.S.-U.S.S.R. bilateral relations; calls on Soviet authorities to permit the release and emigration of "refuseniks"; and makes Congressional support of the restortation of human rights to all Soviet citizens, especially the internationally recognized right of Soviet Jews and others to emigrate, a priority of the 100th Congress.

Soviet Occupation of Afghanistan: S. Res. 31—Senate agreed to January 6, 1987. (2)

Renews Senate condemnation of the Soviet invasion and continued occupation of Afghanistan and its commitment to support the Afghan people through the provision of appropriate material support.

Soviet Release of Igor V. Ogurstov: S. Res. 98—Senate agreed to March 11, 1987.

Expresses the sense of the Senate that the Soviet Union should release Igor V. Orgurstov from internal exile and allow him to emigrate to the West without renouncing his views.

Soviet-U.S. Arms Control: S. Res. 94—Senate agreed to February 17, 1987. (27)

Expresses the Senate's support for the President's commitment to achieve mutual, equitable, verifiable, and stablilizing nuclear arms reduction agreements with the Soviet Union; encourages both nations to use determined and creative diplomacy to resolve their differences; cautions the Soviet Union against pursuing strategies designed to exploit American domestic politics or to divide the U.S. from its allies in an effort to secure advantages on arms reduction matters; urges the Soviet Union not to condition progress in all arms control matters on strategic defense technologies related issues; declares that an important obstacle to the achievement of acceptable arms control agreements with the Soviet Union has been that nation's violations of existing agreements and calls for rectification of the violations; and urges the President to closely consult with America's allies and the Senate in the construction of sound arms reduction agreements.

Soviet/U.S. Family Visitations: S. Con. Res. 29—Senate agreed to July 29, 1987; H. Con. Res. 68—Action completed November 4, 1987.

States the sense of the Congress that the promotion of unrestricted family visits between related people of the U.S. and the Soviet Union is an essential part of American policy toward the Soviet Union, and that the Administration should raise this issue in discussions with the leadership of the Communist Party and the Soviet government.

State Department Authorization: H.R. 1777—Passed House June 23, 1987; Public Law 100-approved——,——, 1987. (315)

Authorizes a total of $,121,344,000 in FY 1988 and $4,222,752,000 in 1989 for the foreign affairs functions of the United States which includes $3,100,821,000 in 1988 and $3,162,837,000 in 1989 for the Department of State, $437.4 million in 1988 and $446.3 million in 1989 for the United States Information Agency (USIA), and $186 million in 1988 and $207.4 million in 1989 for the Board for International Broadcasting (which makes grants to Radio Free Europe/Radio Liberty); authorizes the Secretary of State to implement a counterintelligence polygraph examination program for Diplomatic Security Service members; restricts the acquisition of real property in the U.S. by or on behalf foreign missions for certain countries if it would substantially improve that country's ability to engage in intelligence activities hostile to the U.S.; requires the U.S. to withdraw from the construction and site exchange agreements with the Soviet Union governing the new embassies of both countries, unless the President reports to Congress, six months after enactment, that all feasible and affective steps are being or will be taken to secure the U.S. embassy in Moscow and remove the threat to the U.S. security from the Soviet occupation of the Mount Alto, D.C. site; contains a number of provisions addressing the new U.S. embassy in Moscow and dealing with the security of U.S. embassies overseas generally; expresses the sense of the Congress with respect to the Soviet ICBM test off Hawaii; limits pay out of the U.S. contribution to the United Nations pending U.N. implementation of the consesus-based decision-making process; states that, if Israel is denied its legal right to participate in the U.N., the U.S. will suspend participation in all U.N. activities, except the Security Council and the International Atomic Energy Agency safeguards program, until the action is reversed; requires that the negotiation of updated extradition treaties to ensure that narcotics traffickers can be extradited to the U.S. be made a priority in the country plan for U.S missions in each drug producing or transiting country; requires that the Secretary of Commerce certify that foreign bidders are not receiving direct subsidies that would disadvantage U.S. citizens bidding on Voice of America's facilities modernization program projects; reinstitutes normal immigration from Cuba and third countries; calls on the President to work with the EPA Administrator to develop and propose to Congress a coordinated national policy on global climate change; tightens certain statutory provisions relating to diplomatic immunity to provide legal recourse for U.S. citizens injured in automobile accidents involving foreign diplomats; and prohibits the solicitation or receipt of funds to provide living quarters for the Secretary of State.

Transfer of F-15 Aircraft to Saudi Arabia: H.R. 3282—Passed House October 19, 1987; Passed Senate amended December 9, 1987.

Establishes the terms and conditions for the sale or other transfer of F-15 aircraft to Saudi Arabia; and allows the obsolete submarine U.S.S. Turbot to be transferred to Dade County, Florida, before the expiration of the applicable 60-day Congressional review period.

U.N. International Conference on Drug Abuse and Illicit Trafficking: S. Res. 238—Senate agreed to June 26, 1987. (159)

States that the Senate strongly urges the U.S. delegation to the International Conference on Drug Abuse and Illicit Trafficking to secure firm commitments from the governments of drug-producing and drug-transit countries to: make drug abuse and trafficking priorities in their domestic governments as well as international policy; reduce illicit drug crop production and transshipment; design and participate in more effective methods of sharing intelligence and information for cooperative international drug law enforcement; negotiate extradition treaties and mutual legal assistance treaties for mutual enhancement of efficient drug enforcement; and support the initative to develop a new convention to combat illicit narcotic traffic.

U.N. Resolution on Zionism: S.J. Res. 205—Public Law 100-169, approved November 18, 1987.

Declares that the U.N. General Assembly Resolution 3379, which equates Zionism with racism, should be overturned.

U.S. Foreign Language Skills: S. Con. Res. 26—Senate agreed to March 6, 1987.

Expresses the sense of the Congress that a cooperative effort to improve the foreign language skills and international awareness of the American people will help the U.S. compete economically.

Venice Economic Summit: S. Res. 220—Senate agreed to June 4, 1987.

States the sense of the Senate that the President should make agricultural issues a priority of the Venice Economic Summit in June and that the participating nations should make a coordinated effort to reduce surplus agricultural supplies and eliminate agricultural export subsidies.

S. Res. 225—Senate agreed to June 4, 1987. (146)

States the sense of the Senate that the President should encourage the Allies at the upcoming Venice Economic Summit to cooperate in diplomatic and military measures to ensure Western security interests in the Persian Gulf and seek commitments from: (1) Germany and Japan to reduce their trade surpluses by substantially increasing their imports; (2) the European Community and Japan to liberalize their agricultural import policies; and (3) other participants at the summit to contribute and cooperate with the U.S. and international efforts to combat and prevent the spread of AIDS.

Vietnam MIA Negotiations: S. Res. 255—Senate agreed to July 28, 1987. (213)

Expresses the Senate's support for General Vessey in his forthcoming negotiations to determine the fate of those Americans missing in action in Southeast Asia, facilitate the return of the recoverable remains of those missing in action, and discuss the remaining humanitarian issues affecting both nations; and calls on Vietnam to respond positively to these concerns in a humanitarian context.

Vietnam Political Prisoners: S. Res. 205—Senate agreed to May 1, 1987.

States the sense of the Senate that Vietnam should immediately release prisoners held because of their association with the South Vietnamese government before 1975, and fulfill its commitment to negotiate their humane resettlement abroad or to rejoin family members outside of Vietnam; and immediately resume processing family reunification cases under the U.N. High Commissioner for Refugees' Orderly Departure Program.

JUDICIARY AND ADMINISTRATION OF JUSTICE

Child Abuse Prevention and Treatment: H.R. 1900—Passed House June 8, 1987; Passed Senate amended November 3, 1987; in conference.

Reauthorizes, for four years, the Child Abuse Prevention and Treatment program at $48 million in FY 1988, $55 million in 1989, $60 million in 1990, and $66.5 million in 1991, the Adoption Opportunities program at $7 million in 1988, and such sums as necessary in 1989-91, and the Family Violence Prevention and Services program at $26 million in FY 1988, and such sums as necessary in 1989-91; requires establishment of a national data collection and analysis program on, and, national resources centers addressing issues of, child abuse and neglect; extends waivers through FY 1988, to States which do not have in place procedures or programs to report medical neglect, and are making a good faith effort; calls for studies on legal representation in child abuse and neglect cases in each State and on the incidence of abuse among handicapped children; targets demonstration grants for training to interagency demonstration programs and those targeted at the prevention and treatment of alcohol-related child abuse and neglect, home health visitor programs, and a parent self-help program of demonstrated effectiveness and national scope; establishes a Presidential Commission on Child and Youth Deaths, authorizes new demonstration grant priorities in the Adoption Opportunities program to fund programs designed to increase the placement of minority children in adoptive families, with a special emphasis on recruiting minority families, and to award grants to agencies to provide post-legal adoption services to adoptive families of special needs children; authorizes new discretionary grants to provide bonus payments of up to $1 million to States which increase the number of permanent adoptive placements for legally adoptable foster care children; and strikes the prohibition on awarding Family Violence Prevention and Services program demonstration grants to a shelter for more than three fiscal years.

Clayton Act Amendments: S. 1068—Passed Senate July 31, 1987.

Amends section 8 of the Clayton Act, which prohibits individuals from serving on the boards of competing corporations, to raise its jurisdictional threshold for application to corporations having a net worth of $10 million (rather than $1 million as at present) to be adjusted annually based on GNP growth; creates three *de minimis* exceptions to Clayton Act application in cases of insignificant competitive overlaps; expands coverage to officers elected or chosen by the board of directors; modifies the antitrust premerger notification system of the Act to include within the definition of a "person," for purposes of premerger notification requirement, a general and controlling partner with an equity interest of 50 percent of more; increases the monetary threshold requirements to require the reporting of transactions if the annual net sales or total assets of the smaller of the involved parties equals $15 million or more and the acquiring party would hold more than $20 million worth of the acquired party's voting securities and assets; lengthens from 25 to 40 days the period which antitrust enforcement agencies have to review cash-tender merger offers; and allows the antitrust enforcement agencies to petition to courts for up to 25 additional days to review complex mergers.

Criminal Fines: H.R. 3483—Public Law 100-185, approved December 11, 1987.

Establishes maximum fines for convicted individuals and organizations; outlines certain factors to be considered in imposing a fine and various payment methods for paying the fine; establishes interest and penalty rates if the defendant fails to pay the imposed fine within established deadlines; and allows the Attorney General to waive all or part of any interest or penalty if he/she determines that reasonable collection efforts would be ineffective.

Independent Counsel Authorization: H.R. 2939—Public Law 100-191, approved December 15, 1987. (365, 386)

Reauthorizes for five years the independent counsel statute under Title VI of the Ethics in Government Act of 1978, and clarifies and modifies certain provisions governing the independent counsel process.

Justice Department Authorization: S. 938—Passed Senate July 31, 1987.

Authorizes $5.5 billion for Department of Justice activities in FY 1988-89 including funding for general administration, the Federal Bureau of Investigation, the Drug Enforcement Agency, the Immigration and Naturalization Service, and the U.S. Marshals Service; permanently enables the DOJ's financial management authorities; and contains authorizations and exemptions, which shall expire on October 1, 1989, for the conduct of undercover investigations.

Retirement Benefits Bankruptcy Protections: S 903—Public Law 100-41, approved May 15, 1987.

Extends from May 15, 1987, until September 15, 1987, certain provisions under title 11 of the Bankruptcy Code relating to the protection of retiree health benefits when companies file for bankruptcy.

S. 548—Passed Senate July 24, 1987.

Amends the Bankruptcy Code to require companies which file for bankruptcy to continue the insurance benefits payments of retirees who had gross incomes of less than $250,000 during the 12-month period preceding the bankruptcy filing; establishes procedures for petition or modification of the benefits payments; provides for the conversion from chapters 11 or 13 to chapter 12 bankruptcy proceedings of eligible family farm bankruptcy cases commenced before November 26, 1986, which are pending or reviewable; prohibits the discharge in bankruptcy of an individual debtor's Guaranteed Student Loan obligations and any debt arising from a judgment or consent decree which requires restitution for violating a State law; and provides for an additional bankruptcy judge in each of the judicial districts of Colorado and Arizona.

S. 1577—Public Law 100-99, approved August 18, 1987.

Extends from September 15, 1987, until October 15, 1987, certain provisions under title 11 of the Bankruptcy Code relating to the protection of retiree health benefits when companies file for bankruptcy.

S. 1783—Passed Senate October 14, 1987.

Extends from October 15, 1987, until November 15, 1987, certain provisions under title 11 of the Bankruptcy Code relating to the protection of retiree health benefits when companies file for bankruptcy.

H.R. 2969—Passed House October 13, 1989; Passed Senate amended October 30, 1987.

Extends from November 15, 1987, until enactment of this Act or December 31, 1987, whichever is earlier, certain provisions under title 11 of the Bankruptcy Code, re-

lating to the protection of retiree health benefits when companies file for bankruptcy; amends the Bankruptcy Code to require companies which file for bankruptcy to continue the insurance benefits payments of retirees who had gross incomes of less than $250,000 during the 12-month period preceding the bankruptcy filing; establishes procedures for petition or modification of the benefits payments; provides for the conversion from chapters 11 or 13 to chapter 12 bankruptcy proceedings of eligible family farm bankruptcy cases commenced before November 26, 1986, which are pending or reviewable; prohibits the discharge in bankruptcy of an individual debtor's Guarantee Student Loan obligations and any debt arising from a judgment or consent decree which requires restitution for violating a State law; and provides for an additional bankruptcy judge in each of the judicial districts of Colorado and Arizona.

Semiconductor Chip Protection Extension: S. 442—Public Law 100-159, approved November 9, 1987. (366)

Extends, from November 8, 1987, until July 1, 1991, the authority of the Secretary of Commerce to issue interim orders providing protection in the U.S. to semiconductor chip designs first commercially exploited outside the U.S.; requires the Secretary, in consultation with the Register of Copyrights, to report to Congress by July 1990, on the status of international laws protecting semiconductor chips; and codifies the authority of the President to suspend, revise, or revoke proclamations issued pursuant to the Semiconductor Chip Protection Act of 1984.

Sentencing Reform Amendments: S. 1822—Public Law 100-182, approved December 7, 1987.

Amends the Sentencing Reform Act of 1984 to provide for the implementation of the Federal sentencing guidelines effective November 1, 1987, including provisions which clarify the standards for departure from the guidelines; authorizes the Sentencing Commission to promulgate emergency guidelines when a previously promulgated guideline has been invalidated or Federal law is amended; extend the maximum terms of supervised release which an offender may be required to serve; establish guidelines for the sentencing and parole prisoners transferred from foreign countries, pursuant to treaties with the U.S.; eliminate the requirement for sentencing guidelines for petty offenses; postpone for one year the deadline for the Commission's report on the grading and penalties for offenses; and eliminate the requirement that the Commission respond to defendant petitions for guideline modifications.

U.S. Bankruptcy Judges and Magistrates Retirement Parity: H.R. 1947—Public Law 100-53, approved June 8, 1987.

Modifies Civil Service Retirement System provisions relating to U.S. magistrates and bankruptcy judges.

Venue Selection for Multiple Appeals of , approved, , 1987. S. 1134—Passed Senate December 19, 1987.
December 19, 1987.

Simplifies the selection of the proper court to handle the judicial appeal of an agency order in those cases where petitions for review are filed in more than one court of appeals.

NATURAL RESOURCES—HISTORIC SITES (SEE ALSO ENVIRONMENT)

Aircraft Altitude Over National Parks: H.R. 921—Public Law 100-91, approved August 18, 1987

Requires the Secretary of Interior to report to Congress, within three years, on the appropriate minimum altitude for aircraft flying over national parks, and sets interim limitations on flights over the Yosemite, Grand Canyon, and Haleakala National Parks.

Big Bend National Park: H.R. 2325—Public Law 100- , approved , 1987.

Directs the Secretary of the Interior to accept the donation of approximately 67,125 acres for inclusion in the Big Bend National Park in Texas.

Big Cypress National Preserve Addition: S. 90—Passed Senate December 11, 1987.

Authorizes such sums as necessary for the Secretary of the Interior to acquire 146,000 additional acres for the Big Cypress National Preserve Addition in Florida; requires the Secretary to report to Congress, within one year of enactment, on the public use and the status of land acquisition at the Preserve, and the effectiveness of the Preserve's regulation and management and recommendations for their improvement; and requires the Secretary to promulgate regulations, within nine months of enactment, relating to the exploration, development, and production of oil and gas resources within the Preserve or on private property which require access rights through the Preserve.

City of Rocks National Reserve: S. 1335—Passed Senate December 11, 1987.

Authorizes $2 million for the establishment of the City of Rocks National Reserve encompassing approximately 14,320 acres in Idaho and authorizes periodic grants to the State and local government to cover up to 50 percent of the operation and maintenance costs.

Chickamauga and Chattanooga National Military Park: H.R. 2121—Public Law 100- approved , 1987.

Directs the National Park Service to assist in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia.

Delta Region Preservation Commission: H.R. 2566—Passed House September 29, 1987; Passed Senate amended December 19, 1987.

Extends the term of the Delta Region Preservation Commission from 10 to 20 years, and provides specific authority to the Department of Interior to obligate funds for the construction of Acadian Folklife Centers in the Jean Lafitte National Historical Park.

El Malpais National Monument, New Mexico: H.R. 403—Public Law 100- , approved , 1987.

Establishes a 114,000-acre national monument to be managed by the National Park Service and a 262,690-acre national conservation area managed by the Bureau of Land Management in the El Malpais area of western New Mexico; provides for designation of existing roads linking a variety of prehistoric and historic cultural sites in New Mexico and eastern Arizona as the Masau Trail; designates two areas within the conservation area as wilderness—the Cebolla Wilderness consisting of approximately 60,000 acres and the West Malpais Wilderness consisting of approximately 38,210 acres; calls for a study of roadless areas of the national monument and the restudy of the Chain of Craters for possible designation as wilderness; and contains a number of provisions to protect the rights of Indians, particularly the Acomas.

Gettysburg National Military Park: H.R. 797—Public Law 100-132, approved October 16, 1987.

Directs the Secretary of the Interior to accept the donation of approximately 31 acres of land for inclusion in the Gettysburg National Military Park in Pennsylvania and conduct a study and report recommendations to Congress, within one year of enactment, on the final development of the park.

Hagerman Fossil Beds National Monument: S. 1675—Passed Senate December 11, 1987.

Authorizes $5 million for the establishment of the Hagerman Fossil Beds National Monument consisting of approximately 4,394 acres in Idaho.

History Preservation Fund Authorization: H.R. 1744—Public Law 100-127, approved October 9, 1987.

Extends the authorization for the Historic Preservation Fund, which is currently authorized at not to exceed $150 million annually, from FY 1987-92.

Jimmy Carter National Historic Site and Preservation District: H.R. 2416—Public Law 100- , approved , 1987.

Authorizes such sums as necessary, but not more than $3.5 million for the acquisition of real and personal property, preservation easements, and development of the Jimmy Carter National Historic Site and Preservation District in Georgia.

Lowell National Historical Park: H.R. 2035—Public Law 100-134, approved October 16, 1987.

Increases the authorization for the Lowell National Historical Park from $18.5 million to $19.8 million and for the Lowell Historic Preservation Commission from $21.5 million to $33.6 million, and extends the authorization of the Commission for seven years.

Peace Garden Establishment: H.R. 191—Public Law 100-63, approved June 30, 1987.

Authorizes the establishment of a Peace Garden on a Federal land site in the District of Columbia to be selected by the Secretary of the Interior.

Pinelands National Preserve: S. 1165—Passed Senate December 11, 1987.

Authorizes $1 million for the planning and design of a visitor and environmental education center in the Pinelands National Preserve in New Jersey, $5 million for its construction, and $21.2 million for additional land acquisition in the Pinelands.

National Historic Trails Designations—Santa Fe: H.R. 240—Public Law 100-35, approved May 8, 1987.

Designates the Santa Fe Trail for inclusion in the national historic trails system. The Trail extends from Missouri, through Kansas, Oklahoma, and Colorado, to Santa Fe, New Mexico.

National Historic Trails Designations—Trail of Tears: S. 578—Public Law 100-192, approved December 16, 1987.

Designates the Trail of Tears, the route taken by the Cherokee Indians when they were moved to Oklahoma, as a national historic trail. The route extends from North Carolina, through Georgia, Alabama, Tennessee, Kentucky, Illinois, Missouri, and Arkansas, to Oklahoma.

National Historic Trails Studies—DeSoto Trail: S. 1297—Public Law 100-187, approved December 11, 1987.

Directs the Secretary of the Interior to study the DeSoto Trail for possible inclusion in the national historic trails system. The Trail extends from Florida, through Georgia, South Carolina, North Carolina, Tennessee, Alabama, and Mississippi, concluding in Arkansas.

Reclamation Amendment—Oroville-Tonasket, Washington, Irrigation Project: S.

649—Public Law 100-196, approved December 18, 1987.

Amends the Reclamation Authorization Act of 1976 to increase the authorization level for the Oroville-Tonasket Irrigation Project, Washington, from $39.4 million (January 1976, prices) plus or minus such amounts, if any, to $88 million (January 1987, prices) of which only $18 million may be adjusted based on changes in construction costs.

San Francisco Bay National Wildlife Authorization: H.R. 2583—Public Law 100- , approved , 1987.

Authorizes funds for the San Francisco Bay National Wildlife Refuge.

St. Johns River Valley Historic and Prehistoric Sites: H.R. 1983—Passed House July 21, 1987; Passed Senate amended December 11, 1987.

Directs the Secretary of the Interior to construct and maintain a museum at the Fort Caroline National Memorial in Florida and to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, Forida, through the establishment of the Timucuan Ecological and Historic Preserve.

Statue of Liberty Entrance Fees: S. 626—Public Law 100-55, approved June 19, 1987.

Prohibits the charging of an entrance fee at the Statue of Liberty National Monument.

Stones River National Battlefield Boundaries: H.R. 1994—Public Law 100—, approved , 1987.

Expands the boundaries of the Stones River National Battefield, Tenessee, by approximately 53 acres, and authorizes the Secretary of the Interior to acquire a right-of-way and construct a trail from the battlefield to the Civil War Fortress Rosecrans, and to preserve the existing remanants of the Fortress.

Water Projects Amendment—Lock Haven, PA: H.R. 3085—Public Law 100-109, approved August 20, 1987.

Reduces the level of protection for the Lock Haven, PA, flood control project authorized under the Water Resources Development Act of 1986 (P.L. 99-662).

Wild and Scenic Rivers Designations—Kern River; S. 247—Public Law 100-174, approved November 24, 1987.

Designates 151 miles of the North and South Forks of the Kern River in California as components of the National Wild and Scenic Rivers System.

Wild and Scenic Rivers Designations—Kings River: H.R. 799—Public Law 100-150, approved November 3, 1987.

Designates a segment of the Kings River in California as a component of the National Wild and Scenic Rivers System.

Wild and Scenic Rivers Designations—Merced River: H.R. 317—Public Law 100-149, approved November 2, 1987.

Designates a segment of the Merced River in California as a component of the National Wild and Scenic Rivers System.

Wild and Scenic Rivers Studies—New Jersey: H.R. 14—Public Law 100-33, approved May 7, 1987.

Authorizes the study of segments of the Maurice River and its tributaries, the Manumuskin River, and Menantico Creek in New Jersey for study for possible inclusion in the National Wild and Scenic Rivers System.

Wilderness Area Designations—Michigan: H.R. 148—Public Law 100-184, approved December 8, 1987.

Adds nine areas of National Forest land in Michigan, totaling approximately 79,249 acres, to the National Wilderness Preservation System including the Nordhouse Dunes Wilderness, Sylvania Wilderness, Sturgeon River Gorge Wilderness, Rock River Canyon Wilderness, Big Island Lake Wilderness, Mackinac Wilderness, Horsehoe Bay Wilderness, Round Island Wilderness, and McCormick Wilderness.

NOMINATIONS

[Action by Rollcall Vote]

James H. Burnley IV, of North Carolina, to be the Secretary of Transportation—Nomination confirmed November 30, 1987. (387)

Frank C. Carlucci, of Virginia, to be Secretary of Defense—Nomination confirmed November 20, 1987. (385)

Trusten F. Crigler, of Virginia, to be Ambassador to Somalia—Nomination confirmed April 24, 1987. (81)

Alan Greenspan, of New York, to be Member and Chairman of the FED—Nomination confirmed August 3, 1987. (225)

Ann D. McLaughlin, of the District of Columbia, to be Secretary of Labor—Nomination confirmed December 11, 1987. (408)

M. Peter McPherson, of Virginia, to be Deputy Secretary of the Treasury—Nomination confirmed August 6, 1987. (230)

Nicholas Platt, of the District of Columbia, to be Ambassador to the Philippines—Nomination confirmed August 7, 1987. (232)

Arnold L. Raphel, of New Jersey, to be Ambassador to Pakistan—Nomination confirmed May 1, 1987. (85)

David S. Ruder, of Illinois, to be a member of the Securities and Exchange Commission—Nomination confirmed August 6, 1987. (228)

Marvin T. Runyon, of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority—Nomination confirmed December 19, 1987. (418)

David B. Sentelle, of North Carolina, to be U.S. District Judge for the District of Columbia—Nomination confirmed September 9, 1987. (238)

William S. Sessions, of Texas, to be Director of the FBI—Nomination confirmed September 25, 1987. (279)

C. William Verity, Jr., of Ohio, to be Secretary of Commerce—Nomination confirmed October 13, 1987. (321)

William H. Webster, of Missouri, to be Director of the CIA—Nomination confirmed May 19, 1987. (115)

Melissa F. Wells, of New York, to be the Ambassador to Mozambique—Nomination confirmed September 9, 1987. (237)

SENATE (SEE ALSO CONGRESS)

Arms Control Observers Group: S. Res. 30—Senate agreed to January 6, 1987.

Reauthorizes, through the 100th Congress, the Senate Arms Control Observer Group, established in the 99th Congress to monitor all arms control negotiations which the United States is officially undertaking with the Soviet Union.

Arms Control Treaty Review Support Office: S. Res. 348—Senate agreed to December 19, 1987.

Establishes within the Senate an Arms Control Treaty Review Support Office under the policy direction of the Majority and Minority Leaders and the administrative direction and supervision of the Secretary of the Senate, to provide to the Senate such administrative support as the Leaders may direct with respect to Senate consideration of the Treaty between the U.S. and the Soviet Union on the elimination of intermediate-range and shorter-range missiles, done at Washington on December 8, 1987, and of any other arms control treaties that the President may submit to the Senate for ratification during the 100th Congress.

Central American Negotiations Observer Group: S. Res. 273—Senate agreed to August 7, 1987.

Establishes the Central American Negotiations Observer Group consisting of the Senate Majority and Minority Leaders serving ex officio, and six Senators appointed by the President pro tempore upon the recommendations of the Majority and Minority Leaders (three each) to act as official observers as part of the U.S. delegation to any negotiations with the Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua to which the U.S. is a party and to any multilateral negotiations or discussions dealing with peace in Central America to which these countries are invited to participate.

Deputy President Pro Tempore: S. Res. 90—Senate agreed to January 28, 1987.

Authorizes the appointment of an additional deputy president pro tempore to serve at the pleasure of the Senate during the 100th Congress. NOTE: (Subsequently, the Senate passed S. Res. 91 appointing Senator George J. Mitchell, of Maine, to the position.)

Ethical Conduct of Senate Political Committees: S. Res. 279—Senate agreed to September 9, 1987. (236)

States the sense of the Senate that the Senate and its agent political committees must be diligent in adhering to a code of conduct of the highest standard, avoiding even the appearance of improper, unethical, or illegal activity; candidates and their party committees should engage in positive and constructive campaigns, avoiding negative attacks calculated to impugn the character, integrity, or patriotism of a candidate; and the Senate, and the political committees of both parties, must renew their commitment and dedication to winning not only the votes of the citizenry, but their trust and confidence as well.

Office of Classified National Security Extension: S. 632—Public Law 100-18, approved April 3, 1987.

Extends through June 5, 1987, the existing statutory authority for the Office of Classified National Security Information within the Office of the Secretary of the Senate, which expired February 28, 1987.

Office of Senate Security: S. Res. 229—Senate agreed to June 5, 1987

Creates an Interim Office of Senate Security, within the Office of the Secretary of the Senate, to assume the duties, functions, personnel, and facilities of the Office of Classified National Security Information, which expires on July 10, 1987.

S. Res. 243—Senate agreed to July 1, 1987.

Creates an Office of Senate Security, under the policy direction of the Majority and Minority Leaders and the administrative direction of the Secretary of the Senate, to develop and implement any policies and procedures necessary to protect classified information handled in the Senate.

Select Committee on Iran/Contra Affair: S. Res. 23—Senate agreed to January 6, 1987. (1)

Establishes a Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition (Contras) to investigate activities by (1) members and staff of the National Security Council, (2) any foreign government, or any of its agencies, officers, or employees, or (3) any other individual group, corporation, entity, or organization with respect to the direct or indirect sale, shipment, or other provision of arms to

Iran and the use of the proceeds from such transactions to provide assistance to any faction or insurgency in Nicaragua or in any other foreign country, in order to determine whether any of the activities were illegal, improper, unauthorized, or unethical.

SOCIAL SERVICES

Abandoned Infants Assistance: S. 845—Passed Senate August 5, 1987.

Authorizes $20 million annually in FY 1988-90 for the Secretary of HHS to make demonstration grants to local governments for projects that provide homes and other assistance for infants abandoned in hospitals, especially infants with acquired immune deficiency syndrome (AIDS), and requires the Secretary to report to Congress, within six months of enactment, on the scope of this problem and the estimated annual costs to Federal, State, and local governments to provide housing and care for such infants.

Child Abuse and Neglect Assistance Extension: S. 1596—P.L. 100-117, approved September 28, 1987.

Amends the Child Abuse Prevention and Treatment Act to extend through FY 1987, the Secretary of HHS' authority to waive certain eligibility criteria to allow States which are working toward compliance to receive funding for child abuse treatment and prevention programs.

Disability Payments Continuation: S. 1937—Passed Senate December 9, 1987.

Extends from December 31, 1987, to December 31, 1988, the provisions which allow beneficiaries of disability benefits to elect to continue to receive disability payments and Medicare coverage pending an appeal to an administrative law judge on an adverse continuing disability review decision.

Food Stamp Recipient Cash Contributions: H.R. 3435—Public Law 100- , approved , 1987.

Amends the Food Stamp Act to allow low-income families participating in the Food Stamp Program to receive up to $300 in nonrecurring cash contributions in a 3-month period from one or more nonprofit charitable organizations without decreasing their food stamp allotment; and provides for food bank demonstration projects using section 32 commodities in order to provide the Agriculture Department with a testing opportunity to find better ways to meet local needs in distributing surplus commodities.

Jobs for Employable Dependent Individuals (JEDI): S. 514—Passed Senate April 2, 1987. (61)

Amends the Job Training Partnership Act to establish bonus program that pays States a percentage of Federal welfare savings for educating, training, and placing certain employable dependent individuals in nonsubsidized employment for one year; and permits States to provide year-round training to AFDC/SSI dependent youth under the Summer Youth Jobs Program.

Medicare/Medicaid Patient and Program Protection: H.R. 1444—Public Law 100-93, approved August 18, 1987.

Requires that individuals convicted of program-related crimes or patient abuse or neglect be excluded for at least five years from Medicare and Medicaid; broadens the Secretary of HHS' discretionary authority to exclude health care providers for convictions related to obstructing an investigation, controlled substance violations, loss or suspension of license, and suspension or exclusion from any Federal health care program; extends the mandatory and discretionary exclusions and the criminal penalties for bribes, kickbacks, and false statements to the Maternal and Child Health Services and Title XX Social Services Block Grant Programs; authrorizes the Attorney General to deny, revoke, or suspend a controlled substances registration subject to mandatory exclusion from Medicare; authorizes the Secretary to consolidate exclusion and civil monetary penalty determinations involving the same providers into a single administrative proceeding; broadens the Secretary's authority to impose civil monetary penalties for the submission of false claims for physician and hospital services and to seek injunctive relief to protect assets for the payment of imposed civil monetary penalties; and requires States, as a condition of receiving Medicaid funds, to provide information to the Secretary regarding actions taken against health care practitioners by State licensing authorities.

Medicare Catastrophic Loss Prevention: H.R. 2470—Passed House July 22, 1987; Passed Senate amended October 27, 1987; House disagreed to the Senate amendments and requested a conference December 9, 1987. (353)

Provides protection for Medicare beneficiaries from catastrophic expenses associated with covered Medicare services; automatically enrolls all Medicare Part B participants in the catastrophic insurance program; establishes an annual limit of $1,700 on out-of-pocket expenses incurred under Part A or B individually or combined for Medicare-covered services, and indexes the out-of-pocket expenses cap to the annual Social Security COLA's; phases in medicare prescription drug coverage with a $600 deductible in 1990, after which it will be indexed to the average beneficiary's total spending for drugs; authorizes $2 million for six one-year case management demonstration projects for medicare beneficiaries with catastrophic illnesses; establishes a Bipartisan Commission on Comprehensive Health Care to develop legislative recommendations for long-term health care; and calls for studies on adult day care services, public and private options for the long-term care of Americans of all ages, appropriate medicare coverage of prescription drugs; and tax incentives for long-term care insurance.

Older Americans Act Amendments: H.R. 1451—Public Law 100-175, approved November 29, 1987. (229,373)

Amends the Older Americans Act of 1965 and authorizes funds for FY 1988-91 for programs under the Act; authorizes $25 million in FY 1988 for new programs for non-medical in-home services for frail older individuals; $5 million for preventive health screening, health education, and promotion services; $5 million in FY 1988 for programs to prevent abuse of older individuals; $20 million for new ombudsman programs; $25 million for special needs programs; and in 1989, authorizes $10 million for outreach programs for those eligible for SSI, Medicaid, and food stamp programs; requires the Secretary of Labor to develop a consumer price index which reflects the impact of inflation on elderly Americans; requires that grant recipients under Title V (community service employment for low-income elderly) distribute materials to enrollees regarding age discrimination; excludes Title V wages from consideration as income in determining eligiblity for Federally subsidized housing and Food Stamps; creates a new part B under Title VI to serve native American Hawaiians; repeals Title VII education and training programs; makes Indians eligible for services under both Titles III and VI; amends the Public Health Service Act to authorize $5 million annually in FY 1988-90 for each part of a two-part, three year, matching demonstration grant program to (1) expand home health care services for individuals who might otherwise require lengthy hospital stays or institutionalization, and (2) develop a range of innovative services to benefit people with Alzheimer's disease as well as their family and care givers; authorizes a White House Conference on Aging in 1991; and makes adult day care centers eligible to participate in food programs under the National School Lunch Act.

School Lunch/Nutrition Program: H.R. 1340—Public Law 100- , approved , 1987. (227)

Requires the USDA to improve the quality, packaging, and delivery of commodities delivered under the National School Lunch, Elderly Feeding, Food Distribution on Indian Reservations, Child Care Food, and School Breakfast programs.

SSI and AFDC Benefits—Charitable Exclusions: S. 1793—Passed Senate October 20, 1987.

Reinstates and makes permanent the exemption of charitable in-kind donations to recipients of Supplemental Security Income and Aid to Families with Dependent Children programs in calculating a household's eligibility for these benefits.

Urgent Relief for the Homeless: H.R. 558—Public Law 100-77, approved July 22, 1987.

Authorizes $442.7 million in FY 1987 and $611 million in 1988 for homeless aid programs including the FEMA Emergency Food and Shelter Program, the HUD Emergency Shelter Grants Program, the Supportive Housing Demonstration Program, supplemental assistance for homeless facilities, HUD's Section 8 moderate rehabilitation certificates (for rehabilitating single room occupancy housing for the homeless), outpatient health services for the homeless, a block grant program to States to provide emergency assistance for chronically mental ill homeless persons, alcohol and drug abuse treatment services for the homeless, and community-based services to chronically mentally ill individuals who are homeless or at risk of homelessness, State grants for developing and implementing plans to educate homeless children, a three-year competitive grant job training demonstration program for the homeless, the Community Services Homeless Block Grant Program, and the Veteran's Job Training Act; makes surplus Federal real and personal properties available to eligible nonprofit organizations which serve the homeless; requires a State, city, or county to submit a comprehensive homeless assistance plan for approval by the HUD Secretary to be eligible for housing assistance in the bill; establishes the Interagency Council on the Homeless; requires States to expedite food stamp service for the homeless and makes other modifications to the food stamp program; reauthorizes the Temporary Emergency Food Assistance Program (TEFAP) at $50 million in FY 1988 and provides for the distribution of additional TEFAP commodities and requires that FY 1987 appropriations made pursuant to this bill not increase the deficit levels established for FY 1987 in the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings).

TRADE

Canadian Agricultural Subsidies Investigation: S. Con. Res. 27—Senate agreed to March 26, 1987. (40)

Expressed the sense of the Congress that the U.S. Special Trade Representative should determine whether the imposition of a Canadian tariff of 84.9 cents per bushel on American corn is inconsistent with Canada's GATT obligations, and, if found unjustifiable, initiate an investigation and report the result to the President within 60 days.

European Community Tax Proposal: S. Con. Res. 21—Senate agreed to March 26, 1987. (39)

Expresses the sense of the Congress that the Administration should vigorously oppose the European Community's proposal for establishing a tax on vegetable and marine fats and oils, which the U.S. views as inconsistent with Europe's GATT obligations.

Japan-U.S. Semiconductor Trade Violations: S. Res. 164—Senate agreed to March 19, 1987. (34)

States the sense of the Senate that the President should take appropriate actions under section 301 of the Trade Act to remedy and prevent further Japanese violations of the semiconductor trade agreement; and declares that the President should insure that Japan fulfills its commitment under the terms of the Market Opening Sector Specific telecommunications negotiations for 33 percent equity participation by foreign firms in any consortium formed to compete with Kotusai Denshin Denwa in providing international telecommunications services via a fiber optics trans-Pacific cable from Japan to the U.S. through Alaska.

Omnibus Trade and Competitiveness Act: H.R. 3—Passed House April 30, 1987; Passed Senate amended July 21, 1987; In conference. (208)

Renews the "fast-track" procedure for trade agreements entered into by the President with foreign countries; mandates responses to unfair distortions of international trade; improves the enforcement of U.S. antidumpting and countervailing duty laws; establishes a new program of trade competitiveness assistance for firms and workers; repeals the windfall profit tax; establishes a special procedure to open foreign markets with a "consistent pattern of trade barriers"; modifies export licensing procedures under the Export Administration Act; modifies Federal Reserve regulations relating to bank-affiliated export trading companies; states U.S. policy regarding international economic policy coordination and currency markets; authorizes withdrawal of privileges for companies from foreign countries which do not accord competitive opportunities to U.S. financial institutions comparable to those of their domestic counterparts; modifies the criminal prosecution provisions of the Foreign Corrupt Practices Act; authorizes the President, after an investigation by the Secretary of Commerce, to take appropriate actions to restrict foreign investment in U.S. businesses which threaten the national security; requires the President to impose sanctions on product imports from companies found to have violated international export control agreements, including the Toshiba Corporation and Kongsberg Vaapenfabrik; directs the President to address the international debt problem of developing countries, including the proposal of an international debt facility; establishes a Trade and Development Program with authority over the mixed credit program; increases appropriations and staff levels for the Foreign Agricultural Service to expand its agricultural export marketing programs and activities; modifies the provisions of several existing agricultural trade programs including: increasing funding for the Targeted Export Assistance Program and establishing a triggered marketing loan program for the 1990 crop year for certain commodities if a GATT agreement on agricultural trade has not been reached; requires that imported food be labeled to specify the country of origin; requires that annual appropriations to reimburse the CCC for net realized losses be made by means of a current indefinite appropriation; requires advance notification of plant closings and mass layoffs; creates demonstration programs for dislocated workers, self-employment opportunities, public works employment, dislocated farmers, farm employees, and ranchers, and job creation; authorizes funds for education programs to improve American competitiveness authorizes various grant programs including the Star Schools and foreign language study programs; makes amendments to the patent laws, with respect to patented processes, the patent misuse doctrine, licensee challenges to patent validity, and patent term restoration; reorganizes the National Bureau of Standards into the National Institute of Technology with responsibility for developing the quality control techniques and generic research to improve U.S. manufacturing and product technologies; establishes a pilot State Technology Extension Program to support innovative State projects to transfer Federal technology to businesses; creates a new Commerce Department Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation; and amends the International Air Transportation Fair Competitive Practices Act to facilitate DOT review of complaints by U.S. carriers; and strengthens export assistance programs for small businesses.

Titanic Imports Prohibition: S. 1581—Passed Senate August 3, 1987.

Prohibits the importation of objects into the customs territory of the U.S. from the R.M.S. Titanic for commercial gain until an international agreement which governs any exploration and salvage of the Titanic, and to which the U.S. is a party, has entered into force.

U.S. International Trade Commission (ITC), Customs Service, and Office of the U.S. Trade Representative (USTR) Authorizations: S. 829—Passed Senate March 30, 1987.

Authorizes in FY 1988, $35.4 million for the ITC, $1.04 billion for the Customs Service, and $15.2 million for the Office of the USTR; requires the Commissioner of Customs to notify Congress 180 days in advance of taking any action resulting in a significant reduction in customs force, hours of operation, or services, eliminating or relocating any Customs office, or eliminating any port of entry; establishes a private sector Advisory Committee on Commercial Operations of the U.S. Customs Service; and directs the Secretary of the Treasury to prohibit the importation from the Soviet Union of certain articles produced wholly, or in part, by convict, forced, or indentured labor under penal sanctions, unless the President certifies that the articles are not being made by forced labor, or that a prohibition would directly affect U.S. national security interests.

U.S. Travel and Tourism Administration Authorizations: S. 1267—Passed Senate July 21, 1987.

Authorizes $14 million in FY 1988, $15 million in 1989, and $16 million in 1990 for the U.S. Travel and Tourism Administration.

TRANSPORTATION AND COMMUNICATIONS

Air Passenger Protection/Airline Mergers: H.R. 3051—Passed House October 5, 1987; Passed Senate amended October 30, 1987; In conference. (361)

Provides for the early sunset (from June 1, 1989, to the date of enactment of this act) of the existing authority of the Secretary of Transportation over airline mergers, acquisitions, consolidations, and interlocking directorates, including the authority to exempt such transactions from the antitrust laws; requires the Secretary of Labor to determine whether a merger or similar transaction would reduce employment or adversely affect wages and working conditions and, upon making a positive determination, to impose labor protection provisions designed to mitigate adverse consequences; requires the Secretary to compile fares and frequency of service offered to or from any of the 50 busiest airports; requires air carriers to submit airline performance information relating to domestic air service to the Department of Transportation for public dissemination; requires the Administrator of the Federal Aviation Administration to establish minimum elapsed flight times; modifies regulations regarding computerized airline reservations systems; establishes a toll-free consumer hotline for air travelers; directs the Secretary of Transportation to establish an Advisory Committee to determine the appropriate level of capacity in the air traffic control system; and requires drug and alcohol dependency testing for certain air and railroad industry personnel and commercial motor vehicle operators.

Airport and Airway Capacity Expansion: H.R. 2310—Public Law 100- , approved , 1987. (356)

Authorizes, from the Airport and Airway Trust Fund, funding for FAA programs in FY 1988-90 as follows: the Airport Improvement Program (AIP)—$1.7 billion in each 1988-90, $1.8 billion in each 1991-92, Facilities and Equipment (F&E)—$1.4 billion in 1988, $1.7 billion in 1989, and $2.2 billion in 1990, Research and Development (R&D)—$201 million in 1988, $215 million in 1989, and $22 million in 1990, and Operations and Maintenance—funding equal to 50 percent of the amounts authorized for the Airport Improvement, F&E, and R&D programs in each 1989-90; earmarks from the F&E authorization, $27 million in 1988, $30 million in 1989, and $35 million in 1990 for installing Instrument Landing Systems; earmarks from R&D funds in 1988, $250,000 for research on improving handicapped access to commuter aircraft and in 1988-90, $25 million for projects relating to airport capacity improvements; makes revisions to the formulas for apportioning funds under the AIP; extends the Essential Air Service Program through September 30, 1998; extends the Airport and Airway Trust Fund taxes through 1990; authorizes $250,000 in each 1988-89 for the Secretary of Transportation to conduct a two-year study to develop an overall airport system plan through the year 2010; and requires the FAA to have an air traffic controllers workforce of 15,900 by September 30, 1988.

Aviation Insurance Program Extension: S. 1628—Public Law 100-148, approved October 30, 1987.

Extends for five years, through September 30, 1992, the Aviation Insurance Program which provides government-sponsored insurance to commercial air carriers operating in a limited number of extraordinarily high risk foreign environments.

Aviation Reports and Records Offenses Penalties: H.R. 1163-Public Law 100-121, approved September 30, 1987.

Makes violators of FAA rules and regulations which require airlines and their employees to maintain and file certain safety-related reports and records subject to fines of up to $4,000 for individuals and $10,000 for airlines and/or five years imprisonment.

*Fairness Doctrine: S. 742—Vetoed June 22, 1987. (75)

Amends the Communications Act of 1934 to codify the Fairness Doctrine adopted by the FCC, by regulation, in 1949 which obligates broadcast licensees (1) to cover issues of public importance, and (2) to do so in a balanced fashion; and provides that the enforcement and application of the Fairness Doctrine shall be consistent with the FCC's rules and policies in effect on January 1, 1987.

*Federal Aid Highway Authorization: H.R. 2—Vetoed March 27, 1987. House overrode veto March 31, 1987; Senate overrode veto upon reconsideration April 2, 1987; Became Public Law 100-17, April 2, 1987, without approval. (21, 33, 51, 60)

Authorizes in FY 1987-91, a total of $68.6 billion from the Highway Trust Fund for the Federal-Aid Highway Program, $18.9 billion for the Federal Urban Mass Transit program, and $630 million for highway safety activities of the National Highway Traffic Safety Administration; provides that funds for the Interstate Cost Estimate and Interstate Substitute Cost Estimate would be administratively released on October 1 annually if Congress has not acted to approve them; and reforms the Uniform Relocation Assistance and Real Property Acquisition Policies Act to make its administration more equitable and efficient at all levels of government.

H. Con. Res. 77—Action completed March 29, 1987. (35)

Makes an enrollment correction in the Federal-Aid Highway Act (P.L. 100-17) to permit States to raise the speed limit to 65 miles per hour on interstate highway segments located outside any urbanized area having a population of 50,000 or more.

S. 1383—Passed Senate June 18, 1987.

Makes technical corrections in the Federal-Aid Highway Act (P.L. 100-17).

Federal Trade Commission (FTC) Authorization: S. 677—Passed Senate April 7, 1987; Passed House amended October 7, 1987; In conference. (69)

Reauthorizes the FTC through FY 1990, at a funding level of $69.85 million in 1988, $70.85 million in 1989, and $71.85 million in 1990; modifies FTC's authority with respect to certain regulatory functions; prohibits FTC intervention in Federal or State agency proceedings without prior notification to the Commerce Committees; provides for a 90-day Congressional review of FTC rules and disapproval through enactment of a joint resolution of disapproval; requires the redirection of $858,000 to FTC's regional offices and maintenance of the offices at their present locations in FY 1988-90 at not less than the proposed FY 1988 budget submission to Congress; and requires separate FTC reports to Congress on: (1) Unfair, deceptive, or misleading practices in the sale of health insurance to the elderly and on the increase in property and casualty rates for small business owners, local governments, physicians, dentists, and child care centers, (2) FTC enforcement activities in the area of resale price maintenance, and (3) FTC enforcement activities in the area of predatory pricing.

Independent Safety Board Authorization: S. 623—Passed Senate April 25, 1987.

Authorizes $26.2 million, $27.5 million, and $28.8 million in FY 1988-90, respectively, for the National Transportation Safety Board.

Long Island Railroad Labor Dispute: H.J. Res. 93—Public Law 100-2, approved January 28, 1987.

Provides for the employees of the Long Island Railroad to return to work for a period of 60 days during which time a three member board appointed by the National Mediation Board is to prepare and submit to Congress, at least 10 days before the 60-day period expires, a comprehensive report on the dispute, progress on negotiations, and its recommendations for a solution.

Maritime Authorization: H.R. 953—Passed House June 2, 1987: Passed Senate amended November 3, 1987.

Authorizes a total of $391.3 million for the various programs of the Maritime Administration in FY 1988, of which $14.5 million is for the Federal Maritime Commission.

National Highway Traffic Safety Administration (NHTSA): S. 853—Passed Senate April 24, 1987.

Authorizes appropriations in FY 1988-89 for the NHTSA to carry out its various responsibilities mandated under the National Traffic and Motor Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act; directs NHTSA to upgrade and expand the current side impact crash protection standard, to apply certain automotive safety standards to multipurpose passenger vehicles (including light trucks), and to require lap-shoulder belts on outboard rear seats; and withholds two percent of Federal highway safety funds from States which fail to implement a uniform national handicapped parking system.

Railroad Safety: S. 1539—Passed Senate November 6, 1987. (370)

Reauthorizes the Federal rail safety program at $40.6 million in FY 1988 and at $41.9 million in 1989; makes certain modifications to improve the effectiveness and enforcement of programs under the Federal Railroad Safety Act; requires written certifications by inspectors of train safety apparatus that the equipment was tested and is working properly; requires the use of event recorders on freight trains; and requires the use of automatic train control on trains operating in the Northeast Corridor.

TREATIES

Annex V of the International Convention for the Prevention of Pollution from Ships: Treaty Doc. No. 100-3—Ratified by Senate November 5, 1987. (368)

Prohibits disposal into the sea of all plastics, including synthetic ropes and fishing nets; requires disposal of other nonplastic garbage beyond 25 miles and of food wastes, paper products, rags, glass, metal, and crockery beyond 12 miles; prohibits garbage disposal from fixed platforms; and contains an understanding that the U.S. government shall make every reasonable effort to have the Gulf of Mexico designated a special garbage-free area.

International Wheat Agreement, 1986: Treaty Doc. No. 100-1—Ratified by Senate November 17, 1987. (379)

Consists of the Wheat Trade Convention, a consultative agreement designed to facilitate the exchange of information about the world grain market and to provide a forum for the discussion of grain trade issues, and the Food Aid Convention designed to achieve a target of at least 10 million metric tons of grain suitable for human consumption annually for developing countries.

Pacific Islands-U.S. Fisheries Treaty: Treaty Doc. No. 100-5—Ratified by Senate November 6, 1987. (371)

Establishes a mechanism under which regional fishing licenses will be provided to the U.S. tuna industry.

U.S. TERRITORIES

U.S. Citizenship Eligibility in the Northern Mariana Islands: S. 1047—Passed Senate July 10, 1987.

Modifies the Covenant establishing a Commonwealth of the Northern Mariana Islands (P.L. 94-241) by specifying that the Section 301 definition of persons who would automatically be granted U.S. citizenship under the Covenant extends to persons who were born in the Northern Marianas and had at least one parent born in the islands when they were a Territory, and persons who have foreign citizenship and took an oath of disallegiance to that foreign nation as of November 23, 1986; and provides that a parent, guardian, or person in loco parentis may complete the oath of disallegiance on behalf of children under age 13.

VETERANS

GI Bill Continuation: H.R. 1085—Public Law 100-48, approved June 1, 1987.

Provides for the indefinite continuation of the new GI bill's programs of educational assistance for members and veterans of the All-Volunteer Force and the Selected Reserve beyond the current June 30, 1988, date for closing off programs to new participants; provides for vocational readjustment; and restores lost educational opportunities to those service men and women who served on active duty after June 30, 1985.

Homeless Veterans Assistance: S. 477—Passed Senate amended March 31, 1987.

Authorizes the VA Administrator, in FY 1987-89, to transfer or lease certain hard-to-sell properties from its inventory to veterans' organizations and nonprofit entities for use as shelters for homeless veterans and their families; requires the Administrator to conduct a pilot program to assist homeless veterans and their families and a pilot program of contracting for community-based residential care for homeless veterans suffering from chronic mental illness; extends the Veterans' Job Training Act through FY 1988, and expands eligibility to homeless veterans; and postpones, for one year, the transition period for the Vietnam-era veterans readjustment counseling program and related reports.

VA Benefits COLA's: H.R. 2945—Public Law 100- , approved , 1987.

Provides a 4.2 percent COLA, effective December 1, 1987, in the rates of VA disability compensation for veterans and dependency and indemnity compensation for survivors; extends from December 31, 1987, to June 30, 1988, the deadline for veterans to apply for participation in Veterans' Job Training Act programs; and increases, from 2,500 to 3,500, the annual limit on the number of VA vocational training evaluations of veteran pensioners.

VA Housing Loan Fees: S. 1691—Public Law 100-136, approved October 15, 1987.

Extends from October 1, 1987, through November 15, 1987, the VA's housing loan origination fee and the formula for determining whether, upon foreclosure, the VA shall acquire the property securing a guaranteed loan; and prohibits the VA from selling loans made to purchasers of VA-acquired foreclosed properties without recourse for less than par value.

Veterans' Beneficiary Travel Payments, Travel Payments, Quality Assurance, and Readjustment Counseling: H.R. 2327—Passed House June 30, 1987; Passed Senate amended October 16, 1987. (337)

Establishes a statutory framework pursuant to which beneficiary travel reimbursement would be made to certain veterans in connection with their travel to VA facilities; authorizes the VA Administrator to waive the deductible for travel by veterans in cases of severe financial hardship; establishes an expanded and autonomous Office of Medical Inspector General and strengthens the activities of the Office of Inspector General to ensure a high quality of health care within VA facilities; eliminates the statutory mandate for the transition of the Vietnam-era readjustment counseling program from one conducted primarily through Vet Centers in community locations to one conducted primarily through VA medical facilities; and provides standards and procedures for any closures or relocations of Vet Centers.

Veterans' Benefits and Services: H.R. 2616—Passed House June 30, 1987; Passed Senate amended December 4, 1987. (400)

Increases the rates of disability compensation and dependency and indemnity compensation for veterans and survivors; improves housing, automobile, and burial benefits for service-disabled veterans; provides for presumptions of service connection for certain disabilities of former prisoners of war; provides disability and death benefits for certain veterans and their survivors based on exposure during service to ionizing radiation from a nuclear detonation; improves VA health care programs and their administration; and provides authorities to help the VA to recruit and retain health care personnel.

Veterans' Employment, Training, and Counseling: H.R. 1504—Passed House June 30, 1987; Passed Senate amended August 4, 1987. S. 999—Passed Senate December 19, 1987.

Provides a comprehensive approach for the creation of a more stable, professional Disabled Veterans' Outreach Program/Local Veterans' Employment Representatives workforce nationwide to furnish employment referral, counseling, job-training, and related services to eligible veterans; authorizes $60 million annually in FY 1988–89 for the Veterans Job Training Act (VJTA); extends the deadlines governing application and entry into a VJTA training program; and enhances the effectiveness of VJTA by providing for enhanced counseling services.

Veterans' Health Care Funding Levels: H. Con. Res. 27—House agreed to March 3, 1987; Senate agreed to amended April 7, 1987.

Rejects the proposal to eliminate funding for Category C veterans care (veterans with non-service-connected disabilities who have incomes above $20,260 and agree to pay a modest copayment) and opposes any policy to exclude any category of eligible veterans from receiving VA hospital, nursing home, or other health care through a funding reduction.

Veterans' Home Loan Programs: H.R. 2672—Public Law 100– , approved , 1987.

Makes several modifications to the VA's home loan programs, including increasing the maximum VA home loan guaranty from the lesser of 60 percent of the loan amount or $27,500 to 50 percent of loans for $45,000 or less, and the lesser of 40 percent or $36,000 for loans over $45,000 or a minimum of $22,500; reducing the maximum guaranty amount for manufactured homes from 50 percent of the loan amount to 40 percent or $20,000; extending the one percent VA loan guaranty fee through September 30, 1989; permanently exempting VA home loan programs from sequestration; limiting the amount of refinancing equity loans to 90 percent of the appraised property value; and allowing the Administrator, for FY 1988–90, to increase a vendee loan by the amount needed to rehabilitate the property.

ORDERS FOR TUESDAY

RECESS UNTIL 12 NOON

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business, it stand in recess until the hour of 12 noon.

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

PROGRAM

Mr. BYRD. Mr. President, no more work remains to be done unless there is something that can be disposed of by unanimous consent. There will be an adjournment resolution. There may be a 1-day continuing resolution. We will be in at 12 noon.

Mr. DOLE. Mr. President, if the majority leader will yield, I think there could be a 1-day extension.

I guess the House has gone out until tomorrow morning. I think the only reason for that would be if anybody has a question, it would be to give the administration some time to look over that 2,300-page bill without shutting down the Government. But notices have gone out.

So I assume, at least until some action is taken, for all practical purposes nonessential employees will not be working tomorrow.

But I do want to thank the majority leader for the outstanding work and his efforts.

We will be back in, I guess, briefly tomorrow morning.

Mr. BYRD. Yes. Mr. President, the adjournment resolution will provide for adjourning over from Tuesday, today, and during the day we will, I am sure, hear from the President as to whether or not he can give us assurance that he will not veto either of these measures. And there are a few resolutions we will pass tomorrow, one notifying the President that the Senate has finished its business, and some such.

RECESS UNTIL TOMORROW

Mr. BYRD. Mr. President, if there be no further business tonight, I move in accordance with the order previously entered that the Senate stand in recess until the hour of 12 noon, Tuesday.

The motion was agreed to; and, at 3:37 a.m., the Senate recessed until Tuesday, December 22, 1987, at 12 noon.