they try to do that? The large carriers squash them like bugs. They say, "We do not want competition. We do not want a new carrier to start up."

So what do they do? Well, first of all, under deregulation, the large carriers have no requirement at all to have any sort of code-sharing with any new carrier. Take the airline that started in North Dakota to fly to the Denver hub. The Denver hub is dominated by one carrier, one of the largest airline companies in the country. That carrier says to a new jet service, "We have no interest in cooperating with you in any way. We are not interested in offering you code-sharing in any circumstance." And if you want to make money you make money hauling people from point A to point B, and that is it—from Bismarck, ND, to Denver, CO. Of course most people are not traveling from Bismarck to Denver. They are traveling from Bismarck to Denver and then to Los Angeles, to Chicago, to Phoenix, to San Francisco, or elsewhere.

The result is, because a large carrier prohibits or simply refuses to cooperate in any way—especially with code-sharing—with a startup carrier, the startup carrier is severely disadvantaged.

In addition to that, the large carrier will go to the travel agents in those communities and say, "I tell you what, we do not want you to ticket on this new competitive airline. We want you to ticket with us. Go a more circuitous route, travel more miles, but travel with us. What we will do is pay the travel agents' override commissions." They effectively say to travel agents, "If you keep people off this new airline, we will pay you to do it." Of course, when the new airline leaves that community and no longer serves, all these overrides, the payments to the travel agents, will be gone. But that is the way this practice works.

Fundamentally, anticompetitive practices by airlines who have gotten big enough to wield the economic clout, the sheer muscle power, injure the startup companies. If I dominate a hub, say in Minneapolis, Denver, or some other hub, I will describe the kind of competition I have in and out of that hub, because I can enforce that competition. I can enforce it by keeping people out and by letting in only those who I choose to let in. Now, that is the circumstance under deregulation without a referee.

Now, I happen to think we do not have a very aggressive effort in the Department of Transportation dealing with these issues of anticompetitive behavior or anticompetitive practices. Am I critical of DOT? Yes, I have been after them for 2 years on these issues. If I am a new carrier that starts up to provide jet service from North Dakota to Denver, for example, I do not even show up on the first one or two computer screens when a travel agent in Los Angeles decides it will book a flight from Los Angeles to North Dakota and back. I do not show up on the screen as providing jet service. That is anticompetitive. It is a computer reservation system, controlled by a dominate carrier that is anticompetitive.

There are a number of anticompetitive practices that occur and not much is done about it. For 2 years I have been after the Department of Transportation to do something about it. They drag their feet for a year and a half, and now there is some work, maybe they are starting to do some things—probably too late, maybe not aggressive enough. My hope is that perhaps in the near future we will see the Department of Transportation do what it ought to do—become the referee, the arbiter of fairness, in what is competitive and what is anticompetitive in this industry.

The amendment I have offered simply says that the Secretary of Transportation shall use such funds as is necessary to investigate anticompetitive practices in air transportation, to enforce section 41712 of title 49, and to report to Congress by the end of the fiscal year on its progress to address anticompetitive practices.

I hope if this is accepted, and I understand it will be, that the Secretary of Transportation will take this seriously and do aggressively what it should have been doing the last couple of years.

I understand some people would like there to be no discussion on amendments that are offered that are being accepted. I am sorry about that, but the fact is I have also been waiting here for an hour, and when I offer an amendment, I intend to be able to speak on it as I wish.

I have a couple of other amendments that I will offer. But I ask that this amendment be accepted, if it is acceptable to the majority and minority.

With that, I yield the floor.

Mr. LAUTENBERG. Mr. President, I think the Senator from North Dakota makes a very good case. Despite the fact that I come from one of the most active transportation centers of the country, New Jersey, and we are the most densely populated State, we need access to aviation and so forth. I agree that the problems that have developed since deregulation have not always been things that we anticipated.

I talked with the Secretary of Transportation, and I made the point that the distinguished Senator from North Dakota made so eloquently just now on the floor. He tells me—and I am sure this is nothing new to the Senator from North Dakota—about the fact that United Airlines has agreed with the cooperative baggage arrangements and cooperative ticketing, though code sharing has not yet become part of the picture.

Unfortunately, in the deregulated mode, the contracts are between airlines. But I am assured that the Secretary will be looking at the anticompetitive situation of small rural airports around the country, whether jet service is available and why it is discontinued. I have that commitment to him. I pass that on to the Senator from North Dakota, so he has a basis for review as time goes by.

We continue to subsidize essential air service in the hope that we will be of some help. Meanwhile, I think the Senator has a good point. We accept his amendment from this side. I assume that the other side also is agreeable.

Mr. STEVENS. Mr. President, has there been a modification of the amendment?

The PRESIDING OFFICER. The Senator sent up a modified version of the amendment, which is before us at this time.

Mr. STEVENS. Has the Senator modified his amendment?

The PRESIDING OFFICER. Not technically.

Mr. LAUTENBERG. The Senator makes a good point. The clerk did not fully read the amendment by our request. I wonder if we could just have a reminder about what is an item to item 1 and 2, where it starts——

Mr. STEVENS. Mr. President, I merely want to find out, is the Senator going to modify the amendment in the form I have before me? This is amendment No. 5131, is that correct?

Mr. DORGAN. Mr. President, I can clear that up. I only offered one amendment. It is at the desk. It is the amendment that I had cleared through the manager.

Mr. STEVENS. I misunderstood the situation. I thought it was being modified from its original form.

Mr. DORGAN. The original amendment was never offered.

Mr. STEVENS. Very well. Really, as an original sponsor of the whole concept of the essential air service, I am pleased to see this amendment come forth in this form. We would have had to oppose the creation of a new office. But this does not do that, so we are prepared to accept the amendment.

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

The amendment (No. 5131) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5132

(Purpose: To reduce the level of funding for the National Railroad Passenger Corporation)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 5132.

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

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

The amendment is as follows:

At the appropriate place, insert the following,

On page 25, strike lines 9 through 14, provided that the $200,000,000 thus saved be made available to the Secretary for high priority rail, aviation and highway safety purposes.

On page 29, line 6, strike "$592,000,000" and insert "$462,000,000".

On page 29, line 9, strike "$250,000,000" and insert "$120,000,000, provided that the $130,000,000 thus saved be made available to the Secretary for high priority rail, aviation and highway safety purposes."

Mr. MCCAIN. Mr. President, I ask if the managers would like to agree to a time agreement. I would be more than happy to discuss that.

Mr. STEVENS. I am interested in a time agreement if the Senator would indicate how long he might want.

Mr. MCCAIN. If the managers are agreeable, 15 minutes on a side. Senator BIDEN asked to be notified at the time of the presentation of the amendment. He also said he would agree to a time agreement, but he would like to have time to debate this amendment.

Mr. STEVENS. The Senator wishes time to contact the Senator from Delaware. If the Senator will proceed, we will try to get a time agreement.

Mr. MCCAIN. Mr. President, I fully intend to enter into a time agreement with the managers of the bill at the appropriate time when they come up with a proposal.

Mr. President, this amendment would restore Amtrak's funding to the House passed level and provide the savings to the Secretary of Transportation for high priority rail, highway, and aviation safety purposes.

The House overwhelmingly passed the fiscal 1997 Transportation appropriations bill by a vote of 403 to 2 and appropriated a total of $462 million for Amtrak's operating expenses and capital improvements.

The Senate has added $330 million to this bill for Amtrak's capital accounts, adding $200 million for the Northeast Corridor Improvement Program which the House did not fund at all. This amounts to at least a 61-percent increase in Amtrak funding over the House appropriated levels. While I understand that some of my colleagues believe that if we continue to throw additional money at Amtrak, its financial problems will disappear, I believe the House-passed funding levels are more than sufficient and I urge my colleagues to support this amendment.

I also know that some will come to the floor to argue that unless we give Amtrak this massive increase in capital grants over and above the House-passed level, Amtrak will find it even harder to reach self-sufficiency. While their intentions may be good, we have been repeatedly promised that with increased expenditures Amtrak will become self-sufficient. That has never been the case before. I do not believe that will be the case today.

Amtrak began in 1971 as a 2-year experiment. Since its creation in 1971, Amtrak has cost the American taxpayer about 418 billion. This $18 billion has gone to subsidizing rail transportation for less than one-half of 1 percent of America's intercity rail passengers. In addition, a recent study by economists Wendell Cox and Jean Love found that the vast majority of Amtrak riders earn more than $40,000 a year.

Let me just show my colleagues Amtrak funding from 1995. In 1995, there will be allotted to the State of New York $215.862 million; to the State of California, $119.531 million; the State of Pennsylvania, $11.945 million; the State of Washington $108.787 million. Those four States will receive $556.125 million. A percentage of the funding——

Mr. LAUTENBERG. Will the Senator yield?

Mr. MCCAIN. Let me finish my statement, I say to the Senator.

Mr. LAUTENBERG. Will the Senator yield for a question?

Mr. MCCAIN. Mr. President, I have the floor. I ask for the regular order.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MCCAIN. I would appreciate it if the Senator from New Jersey would observe the regular order. I said to him I do not wish to yield the floor at this time.

Mr. LAUTENBERG. The Senator from New Jersey does not need a lesson on protocol.

Mr. MCCAIN. The Senator from New Jersey obviously needs a lesson on the rules of the Senate because he interrupted me again as I have the floor.

I ask the Chair for the floor again. I hope that the Senator from New Jersey will not interrupt again as long as I choose not to yield the floor to him.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, on chart No. 2, I would like to show Amtrak revenues and expenses for fiscal years 1988 through 1994. As we can see, the expenses continue to go up and the revenues are basically flat.

This second chart reveals how, over the years, Amtrak's expenses have steadily grown at an accelerated pace while revenue have remained virtually the same. I believe this shows that Amtrak's problems are fundamental and the only question is whether the Federal Government will, at a minimum, put some limits on the amount of taxpayer dollars we are willing to lose to a failed experiment.

The point made by this third chart is basic. Amtrak appropriations have grown over its 25-year existence, and despite this fact, Amtrak still never seems to have enough Federal subsidization to cover its losses.

Mr. President, I remember with great clarity in 1983 when I came to the House of Representatives of the United States when I was visited by a man that I admired as much as any man I have ever known in my life, the former Secretary of the Navy who I had known on my tour in the Navy, Mr. Graham Claytor, Secretary Graham Claytor. Secretary Claytor was then President of Amtrak, and Secretary Claytor assured me that Amtrak funding would no longer be needed after 5 years; absolutely that would be the end because Secretary Claytor, and the other people who ran Amtrak and other Members of Congress, said that after 5 years there would be no need for any more Federal funding because Amtrak would be self-sufficient.

I would be glad to include for the RECORD how time after time after time over many previous years since 1971 that the assurances were given to this body and to the American taxpayers. "Do not worry. Four or 5 years from now the funding required for Amtrak will be finished."

Mr. President, on October 8, 1995, George Will wrote a very interesting and entertaining article that I would like to quote. He says:

Long ago, before Washington decided it did everything so well it should start running a passenger railroad, American slang included a phrase used to express dismay about mismanagement of organizations. The phrase is "Helluva way to run a railroad." Speaking of Amtrak . . .

Congress is speaking of it because conservatives are in a Margaret Thatcher mood. It was said she cold not see an institution without swatting it with her handbag. Republicans, who praise governmental minimalism, can hardly close their year of glory without asking why the government is in the railroad business.

In a sense it has been for more than a century. The word "cordial" hardly suggests the intimacy between government—federal and state—and railroads in the 19th century, when 10 percent of the public domain was given in land grants to the transcontinental railroads. The Union Pacific was given one-tenth of Nebraska—4,845,997 acres.

Amtrak began, as did so much that makes today's conservatives cross, under Richard Nixon, during whose administration there occurred the largest peacetime expansion of government power in American history (wage and price controls) and the creation of the Environmental Protection Agency, the Occupational Safety and Health Administration, forced busing and racial set-asides. He failed to get Congress to enact a new entitlement, a guaranteed annual income, and to embark on what is now called "industrial policy" by funding development of a supersonic transport aircraft.

"All through grade school," said Nixon, "my ambition was to become a railroad engineer." Would that he had. In March 1970, the largest operator of passenger trains, Penn Central, on the verge of bankruptcy, sought

permission to end passenger service west of Harrisburg and Buffalo. For that, government deserved a portion of blame, the Interstate Commerce Commission having resisted rate increases commensurate with wage increases unions were winning. In a textbook example of how bad government begets more government, Amtrak was born.

It began operations in 1971, ostensibly as a two-year experiment. It has lost money since 1971, partly because it has been a mini-welfare state appended to the welfare state: It has been forbidden to contract out union jobs, and laid-off workers have been entitled to six years of severance pay. So, having helped make private railroads anemic (jet aircraft, better highways and inept railroad management contributed mightily to the anemia), the government piled on Amtrak its mandates that would keep it running in the red.

Helluva way to run a railroad? What do you expect from something created in defiance of market forces and regarded by its creators, the political class, as several varieties of pork, including an entitlement for small communities that want the government to guarantee continuing rail service for which there is weak demand?

Recently a full-page magazine ad by Amtrak bore this message at the bottom of the page: "No federal funds were used to pay for this message." What mendacity. Money is fungible, so taxpayers paid for as large a portion of the cost of that ad as they pay of the overall costs of Amtrak—about 20 percent. And Amtrak's ads are not producing congestion down at the old railroad depot. Amtrak carries less than one percent of the people who travel between cities, and half of its passengers are in the Northeast Corridor. Most passengers are middle class, many of them business travelers. Almost all have air or long-haul bus transportation alternatives.

Defenders of the subsidies say, as defenders of subsidies do, that we are all benefiting so much that the subsidies "pay for themselves." Their argument is that because of passenger trains, highways are less congested, air is less polluted, we are delaying the evil day when federal money will have to help build another airport for Boston, and so on. There is some truth in all these arguments and a lot in this one: Government even more heavily subsidizes air and road passengers. United Airlines is not expected to build airports, and Greyhound is not responsible for maintaining the highways.

However, Congress is poised to shrink Amtrak subsidies from more than $700 million next year to zero by 2002 at the latest, when Amtrak is scheduled to be privatized.

That obviously, has not been the case since Mr. Will wrote this article.

Mr. Will continues:

Its roadbed needs work, especially in the Northeast, and its rolling stock is old (the average car is 23 years old), so even with more reasonable work rules and more latitude to rationalize routes, privatization may not be possible. But trying to get the government out of railroading is not optional if the conservatives' determination to rationalize government is real.

Mr. President, this money that I am asking to be reduced would go to much needed rail, air, and road safety. We all realize how much safety is important; indeed, uppermost in the minds of many people as a result of some of the aircraft accidents that have taken place, some of the rail accidents that have taken place in America, and also some of the continued terrible tragedies that afflict the highways day in and day out.

So, Mr. President, I wonder if the managers of the bill are ready to enter into a time agreement?

In the meantime, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. I ask unanimous consent that on this amendment there be a time agreement with 30 minutes on the side of those who oppose Senator MCCAIN's amendment and another 5 minutes for Senator MCCAIN.

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

Mr. LAUTENBERG. If we can modify that, and that is that there be no second-degree amendments prior to a motion to table.

Mr. STEVENS. That time is on or in relation to this amendment and that there be no second-degree amendments in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, I yield 10 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I rise in strong opposition to the amendment by the Senator from Arizona. Cutting funding for Amtrak back to the inadequate level set by the House would be a big mistake and very bad public policy, in my view. It would be a formula for failure for the only intercity passenger rail service we have in America. The amendment would frustrate Amtrak's ongoing attempts to become self-sufficient. Instead of saving any money, it would waste funds already provided for passenger rail by virtually guaranteeing the demise of Amtrak.

It is a formula for failure, Mr. President, because it prevents Amtrak from completing the comprehensive reforms it needs to eventually become self-sufficient in its day-to-day operations.

I know my friends have heard me over the last 20 years make this same point. But no passenger rail service in the world—and passenger rail plays an important role all over the world—no passenger rail service in the world is, in fact, operated without public support for its capital needs. Whether it is in Europe or Japan, the most advanced industrialized economies in the world, not one passenger rail system in the world operates without support for its capital needs. It is these capital investments, the improvements to the Northeast corridor to carry high-speed trains and funds to purchase new locomotives and passenger cars for the western part of the United States as well as the Northeast corridor, that the McCain amendment hits the hardest.

Without upgrades to the bridges, without straightening out the curves, without completion of the electrification of the rail connections between Washington and Boston, Amtrak would be unable to attract the additional passengers it needs to earn more operating income.

Mr. President, we have put Amtrak on a very strict diet. We have cut service. We have cut subsidies. We have gotten a commitment that they will be self-sufficient by the year 2001. Amtrak on the east coast works on an electrification system, overhead electrical wires, and we have spent millions of dollars to upgrade the system from New York to Boston to allow high-speed Metroliner runs from Boston all the way to Washington. We have had to upgrade the bridges. We are well beyond New Haven and working our way up. This amendment would stop that project cold, absolutely cold.

The Senate is on record in support of providing a half cent from the Federal gasoline tax to provide for Amtrak's capital budget. This is a step that I believe has to be taken as soon as possible. But until then, Amtrak will continue to require adequate funding through the appropriations process. I have been working here along with my colleague, Senator ROTH, and others for years and years to get a dedicated source of funding for Amtrak. We are on the verge of doing that. Once that is done, one-half cent would provide $600 million a year in capital costs.

That dedicated capital fund would be able to underwrite the capital cost of the entire Amtrak system coast to coast. But, in the meantime, absent that funding source, to eliminate the Northeast corridor improvements and decimate the remainder of their capital budget nationwide would literally be the end of the railroad. It becomes a self-fulfilling prophecy. We say we want this outfit to be self-sufficient, and the very things needed to make it self-sufficient are the things we are going to deny it before we get to that point.

My friend from Arizona said, I am told, that the average Amtrak passenger makes $40,000 a year and does not need a subsidy, et cetera, et cetera, et cetera. I would like to put this thing in focus. My Western colleagues come

to us in the East, and they say, "An integral part of our economy is water." They point out to us, time and again, that we need to vote to subsidize their farmers, to subsidize their cities, to subsidize their drinking water. And we do. We spend tens of billions of dollars a year—tens of billions of dollars a year.

I will never forget the first time, as a young man, I flew from the east coast to the west coast. I will never forget flying over the foothills of the Rocky Mountains and then on the other side, seeing all these concentric circles on the ground. I wondered what they were, these concentric circles. I had been in an airplane before, but I had never flown coast to coast.

All of a sudden, I realized that is my mother's tax dollars, on Social Security. That is my tax dollars. It is my dad's tax dollars, on Social Security. Subsidizing what? Subsidizing western farm areas, subsidizing Senator MCCAIN's in-laws and himself and others' drinking water. That is OK with me. We are one nation. The purpose of one nation is for each part of the country to work together. The whole is greater than the sum of the parts. All the parts of the Nation need different things. I do not hear Senator MCCAIN or other Western Senators coming here and saying: You know, let us do away with subsidizing those farmers. Let us do away with subsidizing the water John Doe drinks in Phoenix, AZ. And I am not here doing that.

But rail passenger service is critical to my section of the country and to the west coast. It is critical. If we eliminate Amtrak, how many more lanes of interstate highway are we going to be able to put in? What is it going to do to the environment? What is it going to do to the air? All Amtrak wants is a shot, a chance, a shot to make themselves self-sufficient.

I will not be on the floor trying to restore Amtrak money for operating costs if we get the half-cent gas tax, a measly half cent. But the fact of the matter is, the House Transportation Committee and Congressman WOLF cut this significantly, the same amount that my friend and colleague from Arizona wants to cut it. Senator HATFIELD and Senator LAUTENBERG and their colleagues in the Appropriations Committee have repaired the damage done by the House bill. And, as the chairman of the House Transportation Committee, Congressman WOLF, admitted, the House levels were wholly inadequate and were intended to force the adoption of the half-cent proposal.

I am not sure what I think of that strategy, but I certainly agree that Amtrak funding levels in the House bill, the levels called for in Senator MCCAIN's amendment, would be totally inadequate. The McCain amendment is a proposal to kill Amtrak; let there be no mistake about that. As a small State in the Northeast corridor, Delaware would be hard hit by the loss of a major part of its transportation system. As a major center for the repair and maintenance of railroads for more than a century, Delaware also faces the loss of important jobs under the severe cuts in the Northeast corridor and the capital budget of Amtrak. But as Senator LAUTENBERG forcefully argued, Amtrak plays a key role in the whole country's transportation system. As Senator HATFIELD, the distinguished departing chair of the Appropriations Committee, well knows, the west coast is a major beneficiary of passenger rail as well.

I acknowledge that, because of all the cuts we made in Amtrak over the past, not every State or region benefits equally from Amtrak. I acknowledge that. But I do not benefit from the water subsidies either. Delaware farmers do not benefit like the farmers from Arizona. My mother does not benefit, like the Senator's family does. I understand that. That is America.

Senator MCCAIN comes from a desert. I come from a place where there is a lot of water. I come from a place where we are overgrown with highways, where we have trouble breathing the air. Passenger rail is needed to relieve traffic congestion and air pollution. It is needed badly.

I will leave Senator MCCAIN's water alone if he leaves my railroad alone.

Mr. President, I ask unanimous consent to proceed for 1 more minute.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. May I have 1 more minute?

Mr. LAUTENBERG. I yield 1 more minute to the Senator from Delaware.

Mr. BIDEN. I want to stress that Amtrak is not important to just one part of the country or to just a few customers. I understand the distinguished majority leader has been assured by his constituents of the importance of Amtrak to the State of Mississippi. If Amtrak were an airline, it would be the largest air carrier in the country. Amtrak is the single largest individual passenger carrier on the east coast, and to replace Amtrak's service in the East, as well as around the country, would require more lanes of interstate highway and more air pollution, more airport construction, additional safety concerns and increased congestion for all parts of the Nation. So let us not kid ourselves that Amtrak is not important to all parts of our country. But I agree, it is of particular importance to my State and the east coast.

I thank the chairman and ranking member, and I yield back the 12 second I may have left.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I am pleased the Senate Appropriations Committee has approved full funding for Amtrak operations, capital support, and the Northeast Corridor Improvement Program. I regret this amendment to cut funding for Amtrak by $173 million is being offered.

Amtrak, as has been pointed out, provides service for millions of Americans, a competitive service at a competitive price. Through a modern nationwide passenger rail system, traffic congestion, and air pollution are reduced by this fuel-efficient alternative to highway and air travel. I certainly recognize that Amtrak cannot survive much longer as a viable entity in its current financial condition. Many of us are familiar with the oft-cited GAO report documenting the widening gap between Amtrak's revenues and expenses since the beginning of this decade. For the past 2 years, the question facing Congress is, what should we do about Amtrak? I do not think anyone believes that simply increasing or even continuing in perpetuity Amtrak's annual subsidy are wise solutions. Instead, a better solution has been proposed. This solution, partially embodied within the Amtrak authorization bill, will enable Amtrak to operate as much like a private business as possible.

Separate legislation, which constitutes the second part of this proposal, would redirect one-half cent of the Federal gas tax to a new passenger rail trust fund similar to those existing for highway and air travel.

I will just say this. Transporting people has never been a profitable business for railroads. At least it certainly has not been in the past 50 years. So, I believe it is unfortunate that prospects for passage of this Amtrak authorization bill and legislation to redirect the half cent of the Federal gas tax, is being proposed. I think if there is no Amtrak authorization bill and no steady revenue source to allow Amtrak to modernize and privatize, there is going to be trouble. That is the situation we have today. Funding for Amtrak operations and capital support in the Northeast corridor are urgently required for the short-term survival of intercity passenger rail service. Amtrak does want to end its dependence on Federal subsidies. However, until such a plan is in place, Amtrak simply must have the yearly support needed to continue at a minimal level.

I am a user of Amtrak, Mr. President. It is very important to the section of the country I have, and, therefore, I urge the opposition and, indeed, the defeat of the amendment proposed by the Senator from Arizona.

The PRESIDING OFFICER (Mr. GORTON). Who yields time?

Mr. LAUTENBERG. I yield 3 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I rise in opposition to the amendment. I just heard the statement by Senator CHAFEE and agree with his comments. I would like to find a way for Amtrak to become more self-sufficient. I would like to find an additional revenue source for Amtrak. But the fact is, until that occurs, if we do not provide adequate funding, there will not be an Amtrak that represents a national rail system providing service across the country.

If this amendment is adopted, we will be left only with a Northeast corridor service for Amtrak, period. There will be no other Amtrak in the rest of the country. We will have service in the Northeast corridor, and we will have no other service anywhere else. I don't think that advances the interest of a country that does need a mix of transportation services, including rail passenger service.

In fact, the committee cut the Amtrak funding by about $40 million from last year. This amendment would then reduce it another couple hundred million dollars. This does not, in my judgment, move us in the right direction. It moves us exactly in the wrong direction, if you believe that we ought to have some kind of rail passenger system as a national system.

If you believe it only ought to be regional, then you probably will end up all right with this, although I don't think it provides sufficient funding. But if you believe we ought to have a national rail passenger system, then this amendment would severely injure the opportunity to do that, because we would not have a national rail passenger system if this amendment is adopted.

I thank the Senator from New Jersey for the time, and I yield the floor.

Mr. LAUTENBERG. Mr. President, how much time do we have?

The PRESIDING OFFICER. The Senator from New Jersey has 13 minutes, 43 seconds.

Mr. LAUTENBERG. How many?

The PRESIDING OFFICER. Thirteen minutes, 40 seconds.

Mr. LAUTENBERG. The other side has?

The PRESIDING OFFICER. Five minutes.

Mr. LAUTENBERG. Mr. President, I yield myself so much time as I will use between now and the 13 minutes plus.

Mr. President, I indicate my strong opposition to the amendment offered by the Senator from Arizona. It almost sounds like a vendetta. Talk about $18 billion worth of spending on Amtrak—my gosh, we spend over $8 billion a year on aviation; we spend over $20 billion a year on highways. Amtrak is the only serious railroad opportunity we have for passengers, and it has continued to prove its merit and its worth as time has gone by. Amtrak's farebox comes closer to its revenues than any other major passenger rail service in the world.

It is ridiculous for the United States of America not to have a significant passenger rail service. Just look at what would happen in the Northeast corridor where it is believed that we service almost 100 million people. The Northeast corridor would need 10,000 full DC–9's a year to carry the traffic. Well, perhaps that's not true. Maybe we could push them onto the highways. We could put some 11 million people in their cars and tell them to drive between New York and Washington or Boston and Washington or Boston and New York or Boston and New Haven or Boston and Hartford or Boston and Providence. Get in your cars, use more gas, take up more time, that will mean more congestion, more foul air. That is what the alternative is.

I have never seen anything so shortsighted in my life, but the speech sounds good—throw out statistics that have no merit in fact. One says we allocate by State, as I saw the chart displayed by the Senator from Arizona, at which time when I had a question, he refused to answer it. That is his privilege. He had the floor, and he is right, he did have the floor. But there is also something around here called common courtesy. But we pass on that these days.

Mr. President, I have a letter in hand from no fewer than 19 of the Nation's Governors, both Republican and Democratic Governors, urging adequate capital funding for Amtrak. Among the Governors that have urged the committee to provide adequate capital funding of Amtrak are several who are mentioned as the potential Vice President to the nominee—the likely nominee—of the Republican Party: Gov. Tom Ridge from the State of Pennsylvania; my own Governor, very popular, very thoughtful, very well thought of, Gov. Christine Todd Whitman; Governor Pataki of New York; Governor Weld of Massachusetts; and Governor Rowland of Connecticut. I dare say, probably six Vice Presidential candidates there.

I ask unanimous consent that this letter sent to Senator HATFIELD and myself from 19 of the Nation's Governors be printed in the RECORD.

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

JUNE 25, 1996.

Hon. MARK HATFIELD,
*Chairman, Senate Appropriations Committee, Capitol Building, Washington, DC.*
Hon. FRANK LAUTENBERG,
*Ranking Member, Appropriations Subcommittee on Transportation, Dirksen Senate Office Building, Washington, DC.*

DEAR SENATORS HATFIELD and LAUTENBERG: As you consider various options for the FY 1997 Transportation Appropriations bill, we urge you to provide adequate capital funding for the National Passenger Rail Corporation (Amtrak). The General Accounting Office (GAO) estimated that in order to keep Amtrak running and to reduce its dependence on federal operating assistance, Amtrak requires an annual capital subsidy of $500 to $600 million. Amtrak, the Administration and GAO agree that the future reduction of Amtrak's federal operating subsidy is dependent on continued capital investment in Amtrak's infrastructure.

Specifically, we urge you to support, at an absolute minimum, last year's level of funding for general capital—$230 million—and the Northeast Corridor Improvement Program—$115 million. These funding levels are consistent with the assumptions made in the recently-adopted budget resolution and with the authorizations levels which have passed the House and are pending in the Senate.

As you are aware, the Amtrak Board of Directors is strongly committed to eliminating its dependence on federal operating assistance over the next six years. Amtrak's ability to continue to reduce its operating costs, however, is dependent on adequate federal capital support.

While we realize the complex and difficult decisions you face this year with respect to funding transportation programs, we urge you to carefully consider the productivity improvements that have been made at Amtrak and to support an ongoing federal role in maintaining this nation's rail system, even as the federal operating subsidy is phased out.

Sincerely,

Tom Carper, Governor, State of Delaware, Gaston Caperton Governor, State of West Virginia; Howard Dean, Governor, State of Vermont; George Pataki, Governor, State of New York; Ben Nelson, Governor, State of Nebraska; Bill Weld, Governor, State of Massachusetts; Zell Miller, Governor, State of Georgia; John Rowland, Governor, State of Connecticut; Roy Romer, Governor, State of Colorado; Parris Glendening, Governor, State of Maryland; Tom Ridge, Governor, State of Pennsylvania; Mike Lowry, Governor, State of Washington; Christine Whitman, Governor, State of New Jersey; Bob Miller, Governor, State of Nevada, Mel Carnahan, Governor, State of Missouri; Evan Bayh, Governor, State of Indiana; Lawton Chiles, Governor, State of Florida; Jim Guy Tucker, Governor, State of Arkansas; Angus King, Governor, State of Maine.

Mr. LAUTENBERG. Mr. President, in recent years, as Amtrak has been required to reduce service and, in some cases, eliminate service to several States, I have noticed that some of the loudest complaints have come from some of our States in the West and in the Midwest. I appreciate the fact the Senator from North Dakota had comments to make in favor of Amtrak service.

A lot of people are complaining that we have reduced or eliminated Amtrak service. Well, they just don't have the income, and when you think of what it takes to put this system in shape, it is de minimis compared to the service that is being offered. We can dress it up in various terms: high-income people ride the train. See what it looks like and see people getting on there with tattered luggage and not able to figure out another way to get there. It is easy to stand on a high horse and criticize those who ride Amtrak. Try it; you may like it.

The fact of the matter is, while Amtrak's funding levels, as contained in this bill, are higher than the House-passed level, they still remain far lower than the level requested by the administration. The Senator from Arizona wants to take the funding down by almost $400 million, when we worked like the devil, skimped and saved and moved and changed to try and get a balanced funding bill, a balanced transportation bill. And the Senator from Oregon [Mr. HATFIELD], worked very hard to do that.

So, Mr. President, the House Appropriations Committee made a calculated judgment to extract the vast majority of its transportation cuts from Amtrak's budget. I do not agree with those priorities, and neither does the chairman of the committee itself.

The one thing that we ought to be aware of is that if we eliminate Amtrak, we eliminate a serious asset that this country of ours requires. We are the only country in the world, the only country of the more developed countries in the world that does not recognize that you have to invest and you have to subsidize its national passenger rail system. Get on the TGV in France or get on the bullet trains in Japan; the Government pays an awful lot more on a proportionate basis than we are willing to put in Amtrak at our most generous moments.

Mr. President, I yield for a minute or so to my friend from Delaware who has asked to be heard.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. BIDEN. I ask for 1 minute.

Mr. LAUTENBERG. I yield 1 minute.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I see my friend from Arizona is still on the floor. In terms of subsidies, I point out again, because the argument was made, there is a little thing called the central Arizona water project. That is 3.5 billion bucks that my mom is helping to pay for. She will never drink a drop of the water, but Arizona needs it. It is $3.5 billion needed, badly needed—$3.5 billion.

But our country needs Amtrak as well, on the west coast and on the east coast. I yield whatever time I have left.

Mr. McCAIN addressed the Chair.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. The Senator from Arizona asked for the floor. It is all right with me.

Mr. McCAIN. I yield myself 1 minute.

Mr. STEVENS. Will the Senator yield for a moment?

Mr. McCAIN. Sure.

Mr. STEVENS. There is an indication that the chairman will not be able to get back in the time we thought he would get back. I think there are going to be others that seek time on this bill. Will the Senator agree we would extend time on each side for another 10 minutes? I ask unanimous consent that the current time agreement be extended for 10 additional minutes for Senator MCCAIN and 10 additional minutes for Senator LAUTENBERG.

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

Mr. McCAIN. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. McCAIN. While my friend from Delaware is still on the floor, I will say there is no one obviously that knows Amtrak better than the Senator from Delaware, who every evening travels and takes advantage of that opportunity to be back in Delaware with his family and with his friends and his constituents. And I, for one, respect and admire that dedication that the Senator from Delaware has displayed to both his family and the people that he represents. It is obvious why they keep sending him back here.

The Senator from Delaware also mentioned to me that if we did cut Amtrak, we would probably get a lot more speeches from the Senator from Delaware, which I would find enlightening, but others may not.

I understand the commitment that the Senator from Delaware has. I point out, the central Arizona project, as the Senator from Delaware knows, was completed, and the State of Arizona will be repaying the Federal Government for the cost of that.

It is obvious that your then-dollars are not the same as now-dollars. I know the Senator from Delaware appreciates that. My problem is, I say to the Senator from Delaware, this is an unending subsidy, apparently, when the Amtrak authorities themselves maintain every few years that there is only a few more years of subsidy.

My question to the Senator from Delaware is, as they cut more and more service, and basically you are left with the Northeast Corridor and the San Diego-LA route, which is basically what is left, and it is no longer a national rail system for any intents and purposes, how long would this system, which originally was conceived in 1971 to last for 2 years—2 years of subsidies was the deal when it began in 1971—how long will be the requirement to have these subsidies provided by the taxpayers for which one-half of 1 percent of all of the users of transportation, rail transportation, in America, make use of? That is, I think, a legitimate question.

Mr. BIDEN. I would be happy to take 30 seconds to answer the question.

Mr. McCAIN. Mr. President, I reserve the balance of my time. I yield time to the Senator from Delaware from my time to respond.

Mr. BIDEN. Mr. President, I think it is a mistake, but in fact the Congress has agreed—any subsidy would end by the year 2001. The only reasonable way for that to occur, Mr. President, is if in fact we are able to get that half-cent trust fund set up. But whether we get that or not, in the year 2001 this is gone. I think Amtrak made a mistake agreeing to that, to be completely honest with my friend. But that is the answer to the question.

The drop-dead date is the year 2001. In my view, they will not make it—to be completely candid with my friend—they will not make it unless they get that half-cent trust fund.

Mr. McCAIN. I yield myself an additional 30 seconds.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I say with all due respect to the Senator from Delaware, wasn't that what they said in 1971 when they said it will only be 2 more years? And wasn't that what they said in 1983 when Graham Claytor, a man I respect more than almost any other man I have ever known, said, "In 4 years we'll be done"? They said, "In 4 years we'll be done." It is always, always, always 4 or 5 years out, I say to the Senator from Delaware. Really what it has proved is that once you start a system on the Federal dole, it is going to continue forever. And that is the case here, unfortunately, with Amtrak, and why this amendment will not prevail again.

Mr. BIDEN. Mr. President, will the manager yield me 2 minutes?

Mr. LAUTENBERG. Absolutely. I yield 2 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, my friend from Arizona makes at least two valid points—and many more—but two valid points. One is that if Amtrak is out of business, I will be here. I will have to be in Washington; and it means I will not be running out of here after the last vote to get the train home, which means I will get to speak more. That may be inducement enough for my colleagues to vote to continue to subsidize Amtrak, so I am not here late at night debating.

But another truism that the Senator stated is that this has been a subsidy. It is an ongoing subsidy. But when he puts it in the context of being on the dole, you have to put it in the context of all other transportation systems. We subsidize airline tickets more. The average income of people flying in airlines, I suspect, is as high or higher than anyone getting on an Amtrak train.

We subsidize those airline tickets a number of ways. They are tax deductible for business expenses. We build the airports. We build the towers and pay the air traffic controllers, et cetera, et cetera, et cetera. We also subsidize the highways beyond what we collect in the highway trust fund moneys.

So, Mr. President, all modes of transportation in the United States are subsidized. It seems to me rational public policy would dictate us to look at what makes sense. Different regions have different requirements. I see my friend from North Dakota is here. Amtrak is useful to him, but he does not need Amtrak as much as he needs highways. In Delaware we do not need any more highways. We cannot afford any more highways in my State or the State of Rhode Island or the State of New Jersey or the State of New York and so on and so forth.

So every region of the country has different needs. It is true. They are all subsidized. And the question here is, it seems to me, the appropriate question is, What is an appropriate amount of subsidy? And it seems to me when Amtrak, having its budget cut by a third over the last couple years, having trimmed down significantly, this is not an appropriate cut. I thank the Chair for the time.

The PRESIDING OFFICER. The time has expired.

Mr. LAUTENBERG. Mr. President, I yield 2 minutes to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I thank the Chair and the Senator from New Jersey.

I rise to oppose the amendment offered by my colleague from Arizona, Mr. MCCAIN.

Before I outline my reasons for opposing this amendment, I would like to thank my friend and colleague, Senator HATFIELD, chairman of the Subcommittee on Transportation, and Senator LAUTENBERG, a very strong supporter of passenger rail, for their work on this bill. I believe this bill is a tremendous and necessary improvement over the one passed by the House, and we have these two gentlemen to thank for that.

Regarding the amendment offered by my colleague from Arizona, I think the point made by the Senator from Delaware is very valid. All of the modes of transportation are subsidized to a degree. We hear much about the much vaunted Swiss railroad system. They are subsidized. The one in France is subsidized. The one in Japan is subsidized. But in return for that subsidization, the people of the area get a service and a greater degree of safety and comfort that they would not get otherwise.

As some of my colleagues are aware, I wrote a book on this subject some 30 years ago, "Megalopolis Unbound." And the book remains current today because so little has been done in those 30 years.

I hope that we will sustain the effort of the Transportation subcommittee and keep the money in for Amtrak. I am hopeful that, by doing so, we can really make progress in enhancing intercity high speed passenger rail. In so doing, perhaps we can avoid having a future Member of Congress come along 30 years from now, as I am now, lamenting that much more needs to be done, and how very little has changed in the intervening years.

We should also recognize that modernizing and enhancing, not short-changing, passenger rail is the current trend in Europe and Asia. These various nations are providing their people a form of efficient and safe transportation.

Mr. President, as one who helped shepherd through Congress the High Speed Ground Transportation Act of 1965, it has been my long-held belief that passenger rail service is the most fuel-efficient; the least environmentally disruptive; and ultimately, will be the least expensive mode of transportation.

Finally, there is another thought here. We accept the idea that elevated vertical transportation should be free but not horizontal transportation like the subway because it is horizontal. I can remember when I was a boy there were buildings in Europe—still some in Europe—buildings in New York where you put a nickel in order to be transported up or down. I think this also should be kept in mind.

So for all these reasons, I believe that the money—the subsidy, if you want to call it that—for Amtrak should be preserved because it is giving our people service that the citizenry should expect. I thank the managers of this bill for their very fine efforts, efforts I am pleased to support. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I yield myself 2 minutes.

Mr. President, it is all very enjoyable to debate and discuss issues with the Senator from Delaware. And I believe that he makes valid points. I also hope that we do not spend too much time on this amendment and others so he will be able to take his taxpayer-subsidized trip back to Delaware tonight.

Mr. President, I point out that less than one-half of 1 percent of America's inner-city rail passengers are subsidized by this program. It has been long recognized by Democrats and Republicans alike that we need to curtail this ever-increasing subsidy.

As early as 1979, President Carter's Secretary of Transportation, Brock Adams, acknowledged that. I quote back in 1979.

> We can no longer afford to provide disproportionately large and continually increasing amounts of Federal funds for a passenger service that is used by less than one-half of 1 percent of the inner city traveling public.

Again, in 1988, the President's Commission on Privatization, established by President Reagan, recommended, as part of a multiyear plan to move to privatize Amtrak, that "Federal subsidies should be incrementally reduced and a deadline should be set for the Department of Transportation to decide whether Amtrak or portions of its operation should be continued."

Mr. President, again, I would like to see a deadline that is adhered to. I think when we have a program that began initially in 1971, that was only supposed to be there for 2 years, and now in the year 1996 we have a policy of some 4 or 5 years from now, it is time we really got realistic. If there is some cynicism on the part of some of us about these dates that continue to slide every 4 or 5 years, I think it is justified.

Mr. President, the money that is cut out of this appropriation, I point out again, will be used for aviation safety, rail safety, and highway safety, which, obviously, have a great claim to limited taxpayers' funds, greater, I think, than the rail service has been, which has not been able to obtain self-sufficiency in the last 25 years.

I reserve the remainder of my time.

Mr. DORGAN. I wonder if the Senator from New Jersey would yield 1 minute to respond to a point?

Mr. LAUTENBERG. I am delighted to yield.

Mr. DORGAN. The Senator from Arizona made a point that I think probably will mischaracterize something. The implication was that the folks in the inner cities really do not get any subsidy in this area.

My understanding is that in this bill there is $4.4 billion in subsidy for mass transit systems. Obviously, virtually all of the cities that have mass transit systems are getting subsidized on an ongoing basis, and part of this is paid for by folks in Bismarck and Fargo. That is fine. I support that. But I do not want people listening to this debate to understand there is not a subsidy for mass transit because there is a $4.4 billion subsidy.

The point I was making before was that I do not object to deciding as a public investment we want to retain an Amtrak system that is a national system. In fact, it still is a national system, but will not be under the amendment offered by the Senator from Arizona. I personally make the observation that I think it is a good investment to make.

I respect the Senator from Arizona, but we disagree on this, because I happen to think this represents a good investment as part of our transportation system.

I did want to clear up the point on whether or not mass transit is subsidized. Of course it is. It is subsidized substantially—by $4.4 billion in this bill alone.

Mr. LAUTENBERG. Mr. President, I yield 2 minutes to the Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in opposition to the McCain amendment. It is clear what he is trying to do is kill Amtrak. This is wrong.

Amtrak is integral in transporting people across this great country of ours—not just in the Northeast, although the Northeast, which has horrible problems with traffic and air pollution and everything connected with it, needs to go to railroads, needs to utilize the railroads more than it does now for personal transportation.

In addition to that, with the overload on our airplanes, trying to shuttle back and forth to New York and to Boston, the fast trains, which this would essentially eliminate, will resolve that horrible problem, much to the benefit of the people in this Nation.

Amtrak can survive on its own. We are working toward that goal. Over the last 2 years, Amtrak has restructured itself and is working to be free of Federal support in 5 years. I think they will make it.

Mr. President, do not kill our national railroad now. Give Amtrak time to build up the business and let Congress be responsible and pass the Amtrak authorization bill and move the half-cent gas tax to Amtrak. We must not eliminate Federal support until these plans are in place, until they have been given a chance to demonstrate they can work. I am confident they can.

I yield back the remainder of my time.

Mr. ROTH. Mr. President, I rise in opposition to Senator MCCAIN's amendment that would cut capital funding for Amtrak. This funding cut will cripple the Northeast Corridor Improvement Program and threaten the viability of passenger rail in this country. It is my understanding that if the Senate votes in favor of these cuts, it will have far-reaching effects nationwide.

The reduction in capital could mean the termination of the High Speed Rail Program that has the potential to revive passenger rail as an important component of our national transportation system. It will also impair Amtrak's heavy overhaul and maintenance capabilities—much of which is done in Delaware's Amtrak shops. Shortchanging maintenance will contribute to further decline of rolling stock and locomotives, reducing the quality of service, and discouraging potential passengers from choosing Amtrak.

This is a formula for failure, not a plan to make Amtrak self-sufficient or to secure the place of passenger in our country's transportation system.

Mr. President, we are all working toward an Amtrak which operates without a Federal operating subsidy, which provides quality service, and which is financially stable. Amtrak now covers approximately 80 percent of its operating costs with self-generated revenue, up from 48 percent in 1981. Yet we also know that no intercity rail passenger service anywhere in the world operates without some degree of public sector financial support.

Investment in all modes of transportation is important, but we have gone about it in a lopsided way. Purchasing power for Federal highway programs has increased by 48 percent from 1982 to 1996. It has increased 78 percent for aviation, but has decreased 46 percent for passenger rail. In fact, Amtrak currently receives less than 3 percent of all Federal transportation spending. To attain balance, we must balance our financial support to all transportation components, including passenger rail service.

Capital funding is necessary for Amtrak's future. New capital investments will allow Amtrak to operate more efficiently. With new equipment, Amtrak will attract substantial new ridership with increased revenues. It currently costs Amtrak $60 million per year to operate and maintain its old equipment, which frequently breaks down and often requires parts to be specially made.

As many Members in the Senate are aware, I am working to provide a dedicated source of capital funding for Amtrak. The Senate has overwhelmingly supported my legislation that would give Amtrak one-half cent for capital expenditures. Unfortunately, we have not yet been able to pass this legislation into law. However, I will continue to work hard and make these speeches until this legislation is passed.

Amtrak cannot survive without capital funding. If we do not provide funding for Amtrak, we will have no other option but to watch Amtrak collapse. This amendment does not move us in the right direction. If this Congress wants a national passenger rail system, it will continue to vote for capital funding for Amtrak.

I urge my colleagues to strongly oppose this amendment.

Mr. MCCAIN. Mr. President, I note the return of the distinguished chairman of the committee and the subcommittee. I really do not have anything more to add to this debate. I would be glad to discuss it further if the Senator from Oregon desires.

However, I am prepared to yield back the remainder of my time at any time that is convenient for the distinguished manager of the bill.

Mr. LAUTENBERG. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. On the side of the Senator from New Jersey, 7 minutes 32 seconds; and on the other side, 7 minutes 48 seconds.

Mr. LAUTENBERG. I thought I heard the Senator from Arizona yield back.

The PRESIDING OFFICER. He made an offer to the Senator from Oregon that was not responded to.

Mr. LAUTENBERG. Mr. President, I will take such time as remains out of the time that I have to make a couple of points.

We hear that the subsidy for passenger rail service is an egregious purpose, something that ought not be done, and we talk about the subsidy per passenger.

However, we neglect to talk about the fact that there is over $2 billion a year that goes into maintaining FAA's services. That has nothing to do with the trust fund. That is out of the taxpayers' pocket—$2 billion a year. Those who are paying into the trust fund by virtue of a ticket tax, when that is operating, pay into the fund when, in fact, they may not use a particular routing or particular region when they pay that tax.

If we start to cut up the country into how much did you pay for how much service—I think the Senator from Delaware made the point very clearly when he described the need to subsidize water projects, irrigation projects, and flood control projects out West. It is a very divisive approach, I think, to what this country of ours is supposed to be as a single nation.

Just to remind those who are concerned about what would happen if we did not have the Amtrak service that is now available—those services would not be available, I assure you, if we further diminish the assistance that the Federal Government gives to Amtrak. Yes, the needs have been miscalculated over the years. Yes, they have grown substantially. But so has the population. The population of the country has grown significantly. To no one's surprise, much of that population growth is in the urban areas where rail is an essential factor.

Here we fail to recognize that passenger rail service is part of a balanced transportation structure that we need in a society in a country as large as ours.

Commuter lines in States like Rhode Island, Connecticut, Massachusetts, Maryland, New York, Pennsylvania, and New Jersey all use Northeast corridor lines that are owned by Amtrak. They have to function; otherwise, the costs for commuting would increase substantially, or maybe they would not be able to function altogether.

Mr. President, I hope we will defeat this amendment. I think it is very short-sighted and neglects to recognize what the needs of this country are, at a time when we are straining with every mode of transportation, including aviation, including highways, and including rail. We are underinvested in transportation infrastructure and we have to continue to plow ahead, whether we like it or not, if we are to be a mobile society, operating with as much efficiency as we can.

Mr. President, I note Chairman HATFIELD is here on the floor, and I yield the floor.

Mr. HATFIELD. The Senator from Arizona indicated to me he would be willing to yield back his time.

Mr. LAUTENBERG. I am willing to yield back the time on this side.

The PRESIDING OFFICER. All time is yielded back.

Mr. HATFIELD. Mr. President, has the Senator from Arizona yielded back his time?

The PRESIDING OFFICER. Yes. All time is yielded back.

Mr. HATFIELD. I move to table the McCain amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 5132 offered by the Senator from Arizona.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

The result was announced—yeas 82, nays 17, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—82

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

NAYS—17

| | | |
|---|---|---|
| Ashcroft | Gregg | Nickles |
| Brown | Helms | Shelby |
| Coverdell | Inhofe | Smith |
| Faircloth | Kyl | Thompson |
| Gramm | Mack | Thurmond |
| Grams | McCain | |

NOT VOTING—1

Frahm

The motion to lay on the table the amendment (No. 5132) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. Will the Senate be in order.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would just like to report to the Senate we have a few amendments yet, perhaps about 20, that we have to dispose of tonight. We will have rollcalls on some of them. There is no window. We are going to complete them. We had the window this afternoon for an hour and 10 minutes when Senator LAUTENBERG and I were ready to do business and nobody appeared. That was our window. So we will continue straight through now until we finish.

Mr. President, I would ask now that I may yield to Senator MCCAIN for 2 minutes and then the Senator from Ohio, [Mr. DEWINE], has an amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the majority leader for setting a date certain for us to bring up the important and compelling issues concerning aviation safety and strengthening airport security.

We know how important this issue is to the American people. I had intended earlier to bring up some of the provisions of that bill as an amendment on this appropriations bill, something I do not like to do. The majority leader has assured us he will bring this up on a date certain in September, and I believe that is a very important. I know my colleagues are in agreement with me as to how important it is to bring up these issues. We have to strengthen airport security. We have to improve aviation safety in America. It is an obligation we have to all of our citizens.

I hope in September, when we bring up this issue, we will be able to act on it quickly. I intend to work with my colleagues on both sides of the aisle to develop a set of amendments under the leadership of the distinguished chairman of the Commerce Committee, Senator PRESSLER, who has played a key and vital role in all of this legislation.

Finally, I thank the 17 brave souls who voted with me on the last amendment.

Mr. President, I yield the remainder of my time.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 5133

(Purpose: To provide funds and incentives for closures of rail-highway crossings)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself, Mr. LUGAR, and Mr. BIDEN, proposes an amendment numbered 5133.

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

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

The amendment is as follows:

At the end of title IV, add the following:

SEC. . (a) Section 120(c) of title 23, United States Code, is amended by inserting "rail-highway crossing closure," after "carpooling and vanpooling,".

(b) Section 130 of such title is amended by adding at the end the following:

"(1) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section and subject to paragraphs (2) and (3), a State may, from sums available to the State under this section, make incentive payments to local governments in the State upon the permanent closure by such governments of public at-grade rail-way-highway crossings under the jurisdiction of such governments.

"(2) INCENTIVE PAYMENTS BY RAILROADS.—A State may not make an incentive payment under paragraph (1) to a local government with respect to the closure of a crossing unless the railroad owning the tracks on which the crossing is located makes an incentive payment to the government with respect to the closure.

"(3) AMOUNT OF STATE PAYMENT.—The amount of the incentive payment payable to a local government by a State under paragraph (1) with respect to a crossing may not exceed the lesser of—

"(A) the amount of the incentive payment paid to the government with respect to the crossing by the railroad concerned under paragraph (2); or

"(B) $7,500.

"(4) USE OF STATE PAYMENTS.—A local government receiving an incentive payment from a State under paragraph (1) shall use the amount of the incentive payment for transportation safety improvements.".

Mr. DEWINE. Mr. President, this amendment is being offered by myself, Senator LUGAR, and Senator BIDEN, and it really is a fairly simple amendment.

First of all, it costs no money.

Second, it gives States more tools, more flexibility to deal with a very serious problem in this country, and that problem is that each year we lose over 500 people who are killed in collisions between automobiles and trains. In fact, the figure last year was 559 people—559 people died last year in auto-train accidents, 36 of them in my home State of Ohio.

In preparing this amendment, and having some understanding of the problem going back to my time as Lieutenant Governor in Ohio when I worked on this problem, I put together a meeting in my office where we brought together all the experts in this field. They sat down for 2, 2½ hours and discussed this. Then they got together again. One of the ideas they came up with is contained in this amendment.

Mr. President, my amendment is a simple one. It would make America's railroad crossings a lot safer—500 people are killed each year in these train-vehicle collisions. Fifty percent of these accidents occur at crossings that are already equipped with active warning devices—50 percent. So simply adding more warning devices, therefore, is

not a complete solution to the problem.

Some of these railroad crossings are just simply too dangerous. They are life-threatening. They are not needed, and they ought to be closed. We all know though from our own experience that people do become accustomed to taking certain routes and communities get used to certain traffic patterns. That is why it is sometimes very difficult for localities to close these crossings, for local officials to make this decision, even when it is clear on safety grounds that a particular crossing simply needs to be closed.

Clearly, the local communities need some help, and that is the purpose of this amendment. Again, this idea did not come from me. This idea came from the safety experts who have looked at this, both in government and outside of government.

Currently, the Federal Government pays 90 percent of the cost of closing a railroad highway grade crossing, but other grade crossing safety projects, such as traffic signs, guard rails and traffic lights, are eligible for 100 percent Federal funding.

My amendment will make grade crossing closure projects eligible for that same 100 percent Federal funding. This will help remove the current incentive against closure projects. Let me emphasize, this is a State decision that will be made by the State, and that is out of the same pot of money. No additional funds will be utilized. If the safest thing to do is to close a very dangerous railroad crossing, localities should have an incentive to do that.

Let me again point out this amendment does not involve new Federal money. The CBO says no additional contract authority would be necessary. The money for this amendment is already allocated for crossing safety purposes, for the very purpose we are talking about. All we are trying to do in this amendment, Senator LUGAR, Senator BIDEN and myself, is to deploy that money in the most rational and effective way. Again, that decision is being made by the local authorities.

The second part of my amendment provides up to $7,500—again, out of the same pot of money—to a local highway authority for each crossing closed. Mr. President, $7,500 is an incentive to that local community if the State decides that is the best way to spend this money.

Furthermore, the railroad itself that is operating the crossing under this amendment has to match the money. This means up to $15,000 for a local community to close a railroad crossing. In other words, it creates an incentive to get the job done.

Safety does not come about by accident. It comes about when concerned people exercise the necessary level of prudence and the necessary level of vigilance. I have been working with the railroads, with the Federal Railroad Administration and with the Federal Highway Administration on these issues for some time now, and I believe this amendment embodies a commonsense approach to this very real issue of railroad safety. Mr. President, we have worked with the Federal Railroad Administration to develop this amendment, and the amendment has been endorsed by the Association of American Railroads.

In conclusion, let me summarize again, this costs no additional Federal dollars. Every safety expert that we have consulted says this is the thing to do. It is the most cost-effective way to preserve lives. We can close these railroad crossings, frankly, at a fraction of the cost to install the gates and the flashers. They cost anywhere between $130,00 and $135,000, and it takes some time to get them installed.

This amendment will provide more flexibility to the States to deal with this hazard. It has the endorsement of all the safety experts, as well as Senator BIDEN, Senator LUGAR and myself. And, Mr. President, if we needed any other incentive to pass this amendment, let me just hold this chart up. This is a listing for the most immediate year available. This is 1995: "Highway-Rail Grade Crossing Statistics by State." I did not have time to have this blown up, but I am going to read a couple of these, if I could. It has every State. If any Members want to see how many fatalities occurred in their home States, they can do that. South Carolina, just last year, 111 accidents, 61 injuries, 6 fatalities. Looking at the State of California, 191 accidents last year, 69 injuries, 28 fatalities. We go on and on and on.

This is a very simple amendment. It is no cost to taxpayers and gives more flexibility to States, to people who have to make the decisions to spend the finite dollars to try to save lives. I believe this amendment will save lives, and I urge its adoption.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Oregon.

Mr. HATFIELD. Mr. President, I wonder if the Senator from Ohio will yield for a question?

Mr. DEWINE. I certainly will.

Mr. HATFIELD. As the Senator knows, we have a strict position, known here, that we do not accept legislation on appropriations unless it is cleared by the authorizing committee chairman and ranking member. We have accommodated Senators where they have cleared that with the authorizing committee, but this is not in our jurisdiction. I am asking the question as to whether or not the Senator has had clearance from the Environment and Public Works chairman and the ranking member.

Mr. DEWINE. We do not have any direct clearance. If I could finish my answer? The reality is, this is the only train that is moving. If we do not have the opportunity to put it in now, the Senator is well aware it is not going to happen for months and months and months. It is such a simple amendment. I have found no one who, on the substance, is opposed to it. I cannot find anyone opposed to it. That is why we are looking at this as the opportunity to, frankly, save some lives and give the local communities the flexibility they need. It is of such a noncontroversial nature, that is why I am here.

Mr. HATFIELD. I agree the amendment is very meritorious, but it does not comply with our rules. I will have to move to table this and reject it as such. I would prefer to have, maybe, the amendment temporarily set aside until you can confer with our two colleagues who are the authorizers. If they clear it, we will accept the amendment.

Mr. DEWINE. I will be more than happy to temporarily set aside the consideration of the amendment.

Mr. HATFIELD. I thank the Senator. Has the Senator made the request to temporarily lay aside his amendment?

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Mr. President, reserving the right to object, I was distracted for a moment. I would like to be recognized in my own right to make a few comments about the amendment being offered by the Senator from Ohio. I ask that I be added as a cosponsor.

What was the suggestion of the managers of the bill? What was the unanimous-consent request?

Mr. HATFIELD. The request was to temporarily lay aside the amendment until the Senator from Ohio conferred with the authorizing leadership, and then to turn to the next amendment to be offered once it is temporarily laid aside, which is the Exon-Dorgan amendment.

Mr. EXON. The Senator from Ohio has agreed to withdraw his amendment?

Mr. DEWINE. I have agreed to temporarily lay it aside with the understanding the amendment will continue to pend.

Mr. EXON. I simply ask the Senator from Ohio, I would like to be a cosponsor of the amendment.

I remind the Senate, and the managers of the bill, this Senator offered a five-point program last year with regard to grade crossings. Three of the five were accepted and are now part of the law. The two things that were not agreed to, basically on that side of the aisle, last year are now incorporated in the amendment offered by the Senator from Ohio.

So I congratulate him for his leadership in this area. I simply remind all we should have done this last year. I hope we can do it this year in some form. So I thank my friend from Ohio.

I am very pleased to be added as a cosponsor of the amendment.

The PRESIDING OFFICER. The request is to set the amendment aside. Is there objection?

Without objection, the Senator from Nebraska is added as a cosponsor.

The Senator from North Dakota.

AMENDMENT NO. 5134

(Purpose: To prohibit the Surface Transportation Board from increasing user fees)

Mr. DORGAN. Mr. President, I offer an amendment on behalf of myself, Senator CONRAD, Senator HARKIN, and Senator EXON. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. CONRAD, Mr. EXON, and Mr. HARKIN, proposes an amendment numbered 5134.

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

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

The amendment is as follows:

On line 12 on page 41 after the semicolon, insert the following: "*Provided further*, That none of the funds appropriated in this Act or otherwise made available may be used to increase fees for services in connection with licensing and related service fees, pursuant to 49 CFR Part 1002, STB Ex Parte No. 542, for services in connection with rail maximum rate complaints,".

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, the amendment that I have offered on behalf of myself, Senator CONRAD and Senator EXON is an amendment that deals with the fees charged by the Surface Transportation Board for the filing of a complaint by a shipper, a farmer or a grain elevator that might feel is necessary to file against a railroad company that is overcharging.

We have largely deregulated the railroad companies in this country. We have abolished the Interstate Commerce Commission and established the Surface Transportation Board. The question is, Where does a farmer or a grain elevator or some other small shipper go when they feel that the railroad is overcharging them? They file a complaint, under the current circumstances, with the new Surface Transportation Board.

Previously, when a shipper was to file a complaint, they would be required to pay a $1,000 fee in order to file a complaint against a railroad company saying, "This railroad company is overcharging. I am complaining and want a hearing and want some facts to be developed, and I want a judgment about my complaint." So they would file a complaint and pay a $1,000 fee.

The Surface Transportation Board issued a proposal, under the administration's directive to increase user fees.

The Surface Transportation Board proposed to increase the fees from $1,000 to $23,000, roughly, for those who file a complaint against a railroad company.

They are saying that if you are a family farmer or you are a small grain elevator or machinery and equipment dealer and you have a complaint against a big railroad company—and most of them are big—in order to file that complaint, instead of paying a $1,000 fee, we are going to increase it to a $23,000 fee.

Some of us happen to think that that is way out of line—not just out of line but way out of line—and we do not believe the Surface Transportation Board ought to do that.

I have talked to the Chair of the Surface Transportation Board, someone for whom I have great respect. I think she is doing a good job. She said, "Well, we were told that we were going to have to find our money from fees, so we had to put out a schedule."

My expectation is they will not come up with those kind of fees in their final determination. But what we want to make sure of today is, in an era of deregulation of railroads where you have very large significant concentrations of economic power, that that economic power is not wielded against small shippers in a punitive way.

We believe small shippers ought to be able to make a complaint against a predatory pricing practice on the part of a railroad company without having to fork over $23,000. All that means is a lot of small shippers are told, "You don't have the ability to file a complaint anymore. There is no way for you to complain against a railroad because we are pricing you out of existence. You can't afford to complain."

What this amendment that I have offered on behalf of myself and my colleagues does is it says:

. . . none of the funds appropriated in this Act or otherwise made available may be used to increase fees for services in connection with licensing and related service fees pursuant to 49 CFR Part 102, STB Ex Parte No. 542, for services in connection with rail maximum rate complaints.

Very simply, we are saying you cannot increase the fees for small shippers who are going to make a complaint against the railway companies. You cannot increase them from $1,000 to $23,000, not from $1,000 to $13,000. You cannot increase them.

We happen to think in this age where we have deregulated the railroad companies, where we have a significant concentration of economic power that it is fundamentally unfair to small shippers, especially as I mentioned to farmers and grain elevators, to say to them, We have allowed them to concentrate economic power, and when they overcharge you, you are going to have to fork over $23,000 if you feel like you need to complain about it.

Some of us say it is fundamentally unfair. We will not stand for it. We want the Senate to be on record to say none of those funds will be used for those fees. There are other fees they can charge. They can increase them. I am not here complaining about that. That is a decision they can make, but at least with respect to these fees, with respect to small shippers who make complaints about these railways, I say let's freeze these fees and let's not price those folks out of the ability to make complaints against railway companies who overcharge.

Let me make a final point. I come from a part of the country that has had some experience with railroads. I come from North Dakota where a so-called "prairie fire," which was a political fire, began in the early 1900's. The controversy was about banks and railroads and big grain millers taking advantage of our farmers. Big interests with large concentrations of economic power that were taking money from the pockets of our farmers.

That created a populist prairie fire out in my part of the country that said, "We're not going to stand for it." Those folks in the early 1900's would not have stood for this, and we should not stand for it in 1996 either.

Mr. President, let me yield the floor and have the Senator from Nebraska speak on this.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I ask unanimous consent that the Senator from Iowa [Mr. HARKIN] be added as a cosponsor to the amendment just offered by my friend and colleague from North Dakota.

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

Mr. EXON. Mr. President, I thank my colleague from North Dakota for a very thoughtful amendment that is vitally important if you understand the peril, or the potential peril, maybe is a better word for it, that small shippers find themselves in today.

There probably has been no one in the U.S. Senate today who has spent more time and effort in committee and on the floor with regard to railroad matters generally, including grade crossing safety. I fought very hard for the Interstate Commerce Commission. When it was obvious that was not going to prevail for long, I was one of the leading proponents of the Surface Transportation Board that was created under the Department of Transportation.

I simply say, from experience and looking into the future, myself and others as original cosponsors have had firsthand experience with the situation that could affect particularly small carriers.

The most important work of the Surface Transportation Board is to protect

consumers from unfair, unjust, and unreasonable rates or actions by the railroads. I mention specifically captive shippers. Captive shippers are those who are captive because they have no other way to move their products or their goods or their livestock or their grain.

So simply put, what this amendment does is to say that if you are a small shipper, you cannot be charged as originally suggested in a preliminary announcement of fees by the Surface Transportation Board.

The Senator from North Dakota touched on this, Mr. President. I emphasize it a little bit more. If somebody files a complaint against a railroad, the railroad has a whole stable of attorneys who are willing, ready, and able to act in their behalf.

Actually, unless we adopt an amendment like this, for all practicable purposes, if the fees are set too high, that small shipper, that captive shipper, that grain elevator, that small company out there could not afford to file a complaint even if he had full justification for doing so.

So I simply say that railroads need some supervision. There needs to be, especially for small and captive shippers, the right to appeal when they think they are being unfairly treated by the railroads. The Surface Transportation Board is the successor in this area to the Interstate Commerce Commission.

I think the Senate and the House should be very careful that when we talk about increasing fees, we do not allow the Surface Transportation Board arbitrarily to set fees so high that the small businessmen—captive shipper, grain elevator, farmer, call it what you will—would be discouraged from even making a legitimate complaint.

At a time when there is consolidation in the rail sector, rate oversight by the Surface Transportation Board is the best primary means to protect rural shippers, and urban shippers, as well, from a possible loss of competition for the captive shippers. It is time to stop the annual threat to the consumers of rail transportation.

The Surface Transportation Board is all that stands between small shippers and captive shippers and the big railroads. I applaud the Appropriations Committee for rejecting the user-fee-only proposition to finance the Surface Transportation Board. The Dorgan-Exon, and others, amendment assures that the rights of rural and urban shippers are not compromised by unfair, high user fees if they file a complaint with the Surface Transportation Board.

I thank my friend and colleague from North Dakota for offering this amendment. I urge its adoption. I thank the Chair and I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise in strong support of the amendment by my colleague from North Dakota, Senator DORGAN, and the distinguished Senator from Nebraska, Senator EXON. This amendment addresses a very serious concern that was first raised earlier this year when a fee schedule was proposed by the Surface Transportation Board.

These fees that were announced earlier this year by that agency indicate that sometimes people completely take leave of their senses here in Washington when they have responsibility over an administrative function. If there was ever an example of an agency going off a cliff with respect to a proposal, these fees by the Surface Transportation Board are a perfect example.

Under the proposed fee schedule from earlier this year, the minimum filing fee charged rail users complaining of unlawful railroad actions would have been increased from the current $1,000 to $23,000. Let's think about a small elevator in my home State of North Dakota. They have a grievance. Just to be able to file, they would have been expected to come up with $23,000. Where is the rationale for that? If you are going to ask people to pony up $23,000 just to file a complaint, there are not going be many complaints filed. That is for sure.

The unfortunate thing about this is people do not have an alternative. If they have not gone through the administrative process, they cannot go to the courts. And to go through the administrative process, they are told you have to come up with a $23,000 filing fee.

Let me just go through some of the other filing fees that the Surface Transportation Board proposed earlier this year. The fee for filing a formal rate complaint under the so-called stand-alone cost methodology, guidelines alleging unlawful rate practices by rail carriers, would have been increased from the current $1,000 to $233,000.

Mr. EXON. Would the Senator yield for a question?

Mr. CONRAD. I would be happy to.

Mr. EXON. With that fee schedule that you just outlined right from the Surface Transportation Board paper, how many complaints do you think small businessmen, small elevators, would file out of North Dakota?

Mr. CONRAD. The Senator asks a very good question. I think we could be quite assured that virtually no one would file, probably no one would file. I mean, who is going to pony up $23,000 for an unlawful railroad action case? Who could afford to pay, in the case of a formal rate complaint alleging unlawful rates under practices by rail carriers, an increase from $1,000 to—it makes me laugh every time I say it—an increase from $1,000 to $233,000?

The cost for seeking a regulatory exemption to construct connecting rail lines would have been increased from the current $3,000 to $41,700.

I am glad this amendment is being offered. Hopefully, it will send a message.

I do commend the Appropriations Committee for providing some funding for the Surface Transportation Board. That is an important provision in this transportation appropriations bill. The Dorgan amendment simply ensures that there is no possibility the Surface Transportation Board will even consider user fees on the scale of those which were discussed earlier this year.

Mr. EXON. If I might add a comment. It seems to me that if there is that much money out there to get this job done, we might seize on that as a means of balancing the Federal budget in 2 years. I thank my friend from North Dakota.

Mr. CONRAD. I thank the Senator from Nebraska. He makes a very good point. Unfortunately, earlier this year the Surface Transportation Board looked at the budget and the current fee schedule, and somehow believed the agency could become self-sufficient by just raising fees. Unfortunately, this proposed fee schedule did not recognize that agricultural shippers, with legitimate complaints that they need to get adjudicated, could be completely left out of the process because of the steep fees which were being proposed.

Nobody would be coming before the Surface Transportation Board, or virtually no one, because who could afford, just to have a complaint adjudicated, to pay $23,000, much less $233,000, or to deal with the question of construction of connecting rail lines, $41,000? I mean, these are not reasonable.

Hopefully, this amendment will pass and there will be no possibility of these particular fee increases taking place. I want to thank my colleague from North Dakota, Senator DORGAN, for offering this amendment with the Senator from Nebraska, Senator EXON. I am pleased to join them in this effort. I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I was just asked a series of questions by the manager of the bill and the ranking member. I thought maybe I could address those because I think there are some misunderstandings about this.

It is true that the Surface Transportation Board produced a schedule that said, where as we used to charge $1,000 as a fee in order to make complaint against a railroad for unfair pricing, if we are required to raise all of our funds from fees, we will now charge $23,100 instead of $1,000. If you are complaining about the coal rates, we will go from $1,000 to $233,000 as a filing fee and so on and so on.

The ranking member made the point to me just now, well, we have increased appropriations or actually produced appropriations of some $12 million in this bill for the Surface Transportation Board and, therefore, they will not have to raise all of this money from fees. It is absolutely correct.

That $12 million has been appropriated. They will not have to raise that from fees. They will have to raise several millions of dollars from fees. The question is, how will they get that several million dollars? There are a wide range of fees from which to choose. Will they decide, with respect to those who want to file a complaint against a railroad company for unfair pricing, that that fee should go from $1,000 to $2,000, $1,000 to $5,000, $1,000 to $15,000, $1,000 to $23,000? I do not have the foggiest idea.

My amendment says, it shall go from $1,000 to $1,000. The fee is now $1,000 and the fee will be $1,000 if you feel like you need to file a complaint against a railroad company for unfair pricing.

Mr. President, we do not have an Interstate Commerce Commission in America anymore. I never thought I would mourn its passing, and I am not sure I do now, because I used to think it was one of the few agencies in Washington, DC, that had died from the neck up. However, despite the fact the ICC, in my judgment, was relatively worthless as an agency, sat around with a giant ink pad and a giant rubber stamp, and whatever the railroads wanted, they stamped OK. There was a guy named "OK Alan" that was talked about down in a Southern State, the Governor of a Southern State, because he said OK to everything. It was the "OK-ICC Commission."

I never thought I would mourn its passage, but when we deregulated the railroad industry and people said get rid of the ICC, there was a discussion that maybe there should be some referee deciding when and if there are predatory or unfair pricing practices by the railroads, that maybe the folks who are having their pockets picked by that have some opportunity to file a complaint.

So the Surface Transportation Board was created. As I mentioned, I have a fair amount of confidence in the chair of that board, and I do not believe they would increase rates, as they published, from $1,000 to $23,000. But I will make sure with my amendment that they do not with respect to complaints against the rails.

I am joined with the Senator from Nebraska and my colleague from North Dakota and others to say to those who need to file a complaint against the railroads, they ought to be able to file that complaint with a filing of $1,000, and it ought not to be doubled, tripled, or increased 23 times. This amendment says, "Freeze it where it is."

I yield the floor.

Mr. EXON. Mr. President, I ask unanimous consent the minority leader, the Senator from South Dakota [Mr. DASCHLE] be added as a cosponsor to the amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HATFIELD. Mr. President, I ask unanimous consent to temporarily lay aside the Dorgan amendment so we can clear the DeWine amendment that is being cleared by the authorizers.

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

AMENDMENT NO. 5133

Mr. HATFIELD. I ask unanimous consent that the DeWine amendment, which has now been cleared by the authorizers, both the chairman and the ranking member, now be accepted.

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

The amendment (No. 5133) was agreed to.

Mr. LAUTENBERG. I move to reconsider the vote.

Mr. HATFIELD. I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5134, AS MODIFIED

(Purpose: To prohibit the Surface Transportation Board from increasing user fees)

Mr. DORGAN. Mr. President, I send a modification to my amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 5134), as modified, is as follows:

On line 12 on page 41 after the semicolon, insert the following: "*Provided further*, That none of the funds appropriated in this Act or otherwise made available may be used to increase fees for services in connection with rail maximum rate complaint pursuant to 49 CFR Part 1002, STB Ex Parte No. 5424.

Mr. DORGAN. The modification was made necessary in order to reach an agreement with the authorizing committee. Both the majority and the minority have agreed with the amendment as it is modified, and I am told it will be acceptable, then, to the Senator from Oregon and the Senator from New Jersey.

Mr. HATFIELD. Mr. President, I urge adoption.

Mr. EXON. It would be the same cosponsors?

Mr. DORGAN. Mr. President, might I say that the modification is purely technical. The amendment is identical to the amendment I offered previously, but we rearranged the words because there needed to be a technical change.

The modification is offered with the same cosponsors.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from North Dakota.

The amendment (No. 5134), as modified, was agreed to.

Mr. LAUTENBERG. I move to reconsider the vote.

Mr. HATFIELD. I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5135

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

At the appropriate place add the following:

"SEC. . (a) APPLICABLE LAWS.—Section 24301 of Title 49, United States Code, as amended by Section 504 of this Act, is amended by adding at the end thereof the following:

"'(q) POWER PURCHASES.—The sale of power to Amtrak for its own use, including operating its electric traction system, does not constitute a direct sale of electric energy to an ultimate consumer under section 212(h)(1) of the Federal Power Act.'

"(b) CONFORMING AMENDMENTS.—Section 212(h)(2)(A) of the Federal Power Act is amended by inserting 'Amtrak;' after 'a State or any political subdivision);'."

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 5135.

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

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

The amendment is as follows:

Mr. MURKOWSKI. Mr. President, this amendment was a consequence of discussions held in the Energy and Natural Resources Committee among the staff of the majority with regard to the dilemma surrounding Amtrak and the high cost of power that Amtrak is subjected to in the Northeast corridor where most of the rail line is electrified. As a consequence of the efforts to try and help Amtrak to reduce its costs, this amendment was suggested by Amtrak.

Mr. President, it is an extraordinary set of circumstances here when we consider that the potential cost of power wheeled in for the availability of Amtrak could be as low as 3 cents, yet Amtrak is currently paying in many cases 6 cents and, in extreme cases, up to 12 cents from a power-producing facility in New York State that is in bankruptcy. These are the result of State public utility commissions and the overall regulatory complexity associated with the jurisdiction of the Federal Energy Regulatory Commission as

compared to State public utility commissions. These need to be examined.

What this amendment does, Mr. President, is to allow the FERC to order retail wheeling for Amtrak only, something which is currently prohibited under Federal law. It would exempt, therefore, Amtrak from the prohibition which prevents them from taking advantage of cheaper sources of power that would be transmitted from potential out-of-State power suppliers.

The purpose, again, of this amendment is simply to allow Amtrak to acquire electric power at a cheaper rate than it is currently paying. As we all know, Amtrak is not a private company but a quasi-governmental entity created by an act of Congress in 1970. Its stock is owned by the Federal Government. Congress mandated its mission and likewise imposes by Federal law a host of obligations and costs on Amtrak, costs that no regular private company is burdened with. Yet, each year Amtrak's losses are made up through a Federal subsidy.

In fiscal year 1996, Amtrak's Federal subsidy was $285 million, thus, this amendment would result in a savings to Amtrak that translates into about $20 million a year. That is a savings to the U.S. taxpayer that subsidizes Amtrak.

What we have done, Mr. President, in Congress is put Amtrak between the proverbial rock and a hard place. Congress has given Amtrak a mandate to decrease its reliance on Federal operating support. The House and Senate Amtrak authorization bills and the budget resolution proposed to end all operating support of Amtrak in the year 2001. What are we going to do with that? Are we going to adhere to that? Are we going to extend it and try and find ways to help Amtrak reduce its cost? The point is, we have not relieved Amtrak from its statutory obligation and, at the same time, we are taking away its Federal operating subsidy.

Mr. President, I offer this amendment not in the expectation that it is going to be adopted. I offer this amendment to point out the need to move the electric power industry from its current highly regulated, highly inefficient situation into a fully competitive, deregulated marketplace so that Amtrak, along with industrial and residential consumers, can purchase electricity at the lowest possible price. That is what deregulation is all about.

How we get there from here is a very difficult and complex problem. As chairman of the Senate Committee on Energy and Natural Resources, I recognize it, and I have had some conversations, as late as this evening, with Senator JOHNSTON, who is concerned about the issue as well. And to the question of how we address it, of course, is an issue within the jurisdiction of our committee.

The Energy Committee has held three hearings this year on the issue of competitive change in the electric power industry. We intend to hold more. We want to assure everybody that we recognize that the electric industry in this country—a very, very important and significant industry—is not broke by any means. So it is not a question of fixing it in the sense of fixing what is not wrong with it. It is more an effort to try and recognize that by directing more attention to local and State control, with the assurance that we have the availability of wheeling coming in to address cost and efficient producers and somehow try and address that narrow area of what we are going to do to protect those that have stranded costs. That is the challenge before us.

We have an inequity associated with Amtrak. While there is no consensus as to the means for how to make the electric power industry competitive, there is a consensus as to the need for making it competitive.

So what we have to do is address the inconsistencies associated with the industry. We want to have competition, which will benefit consumers—residential consumers, commercial consumers, industrial consumers and, yes, Amtrak. This amendment is but a small piece of a much larger puzzle. The Amtrak issue, along with a host of other electric power issues, such as the privatization of the Federal Power Marketing Administration, will be the subject of our legislative interests in the 105th Congress.

Mr. President, while it is my expectation that we will undertake comprehensive electric deregulation legislation next year, it should not be taken to mean that we should not proceed this year with Senator D'AMATO's PUHCA reform legislation, of which I am a cosponsor. It has been ordered reported by the Banking Committee, and the Senate should take this legislation up at the earliest possible time.

Mr. President, I am going to withdraw the amendment as a consequence of the recognition that, clearly, this is not the time or the place to resolve the wheeling issue for Amtrak. But I hope there is now attention to the inequity associated with Amtrak, and a realization that we are forcing this entity to purchase power far beyond the competitive marketplace that exists, which puts an unfair and unrealistic burden and a responsibility right back with us in the realization that it is the taxpayers that are subsidizing this quasi-government entity, or its shortfall, when indeed there are opportunities out there for Amtrak to buy power at a competitive rate and reduce the Federal subsidy by as much as $20 million a year. And current savings can easily be identified as a consequence of prevailing rates that are in existence at this time. Unless anybody cares to talk on the amendment, or ask me questions, I am prepared to withdraw the amendment at this time. I thank my colleagues.

Mr. HATFIELD. There was a Senator who was planning to be here, but he is not able to be here. I yield to the Senator to withdraw the amendment.

Mr. MURKOWSKI. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HATFIELD. Mr. President, I am checking on some other matters here. But I believe that it is now the Democratic side of the aisle that is going to offer an amendment. We are alternating back and forth.

Mr. LAUTENBERG. Mr. President, what we are attempting to do is to get to that finite list, and that is in the process now.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 5136

(Purpose: To provide for loan guarantees under the Railroad Revitalization and Regulatory Reform Act of 1976)

Mr. HATFIELD. Mr. President, I send an amendment to the desk on behalf of Senator PRESSLER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. PRESSLER, for himself, Mr. WYDEN, Mr. EXON, Mr. HARKIN, and Mrs. BOXER, proposes an amendment numbered 5136.

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

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

The amendment is as follows:

On page 3, line 2, strike "$4,158,000" and insert "$3,000,000".

On page 5, line 17, strike "$132,499,000" and insert "$129,5000,000".

On page 26, line 8, strike "1997." and insert "1997, except for up to $75,000,000 in loan guarantee commitments during such fiscal year (and $4,158,000 is hereby made available for the cost of such loan guarantee commitments).".

Mr. PRESSLER. Mr. President, my amendment is very simple and straight forward. It would provide funding for the section 511 railroad loan guarantee program to enable needed rail infrastructure and safety improvements. I am pleased to be joined in this bipartisan effort by Senators LOTT, SNOWE, EXON, and WYDEN.

Over the years, Congress has often recognized the importance of Federal funding assistance for rail infrastructure projects. Federal appropriations through such programs as the section

511 program and the Local Rail Freight Assistance [LRFA] Program have enabled the continuation of rail service for many communities that have been on the brink of losing service. I strongly support initiatives to promote rail infrastructure rehabilitation.

The Senate Committee on Commerce, Science, and Transportation, which I chair, has reported legislation to permanently authorize the LRFA Program. To date, this authorizing legislation, S. 1318, the Amtrak and Local Rail Revitalization Act, has not been considered by the full Senate. Because I recognize the concerns of some of my colleagues about funding certain expired programs, my amendment only proposes funding for the permanently authorized section 511 program. However, I will continue to support LRFA reauthorization and funding in future years.

Mr. President, I want to point out the House-passed Department of Transportation appropriations bill includes $58.86 million for title V—section 505—railroad loans. At first glance, I am pleased the House recognizes the importance of funding assistance for freight rail infrastructure. Yet, I am concerned because the entire amount has been earmarked for only one project in California. Many equally important projects would be shut out of the process by the House-passed bill. This clearly ignores the national need for rail rehabilitation on light density rail projects throughout our country. It also is important to note the House approved funding has been allocated to an expired Federal loan program.

My amendment would provide $4.158 million for section 511 loan guarantees. This would permit a loan level of up to $75 million for many legitimate rail projects across our Nation. Further, my amendment includes offsets for this funding from certain administrative functions. I believe basic infrastructure investment would be a better use of scarce Federal dollars.

Mr. President, Federal involvement, while limited, would advance track and bridge projects planned in Iowa, Maine, Nebraska, New Mexico, Oregon, and South Dakota, just to name a few. In turn, rail safety and economic opportunity for these and hundreds of other communities would be promoted. I urge my colleagues to support my amendment.

Mr. HATFIELD. Mr. President, this amendment offsets $4.1 million for the Federal Rail Administration. There is a loan program where $4.1 million can, in effect, leverage $75 million in guaranteed loans. This is basically geared for some of the rail problems in the smaller areas, or the less populated areas.

It has been cleared on both sides. It is budget neutral. As I say, it has been offset for that transfer of moneys.

Mr. LAUTENBERG. Mr. President, will the manager yield for a moment?

Mr. HATFIELD. Yes.

Mr. LAUTENBERG. There seems to be a question about clearance on our side, if we can review that for a couple of minutes. I would be happy to then discuss it.

Mr. HATFIELD. I ask that we temporarily set aside Senator Pressler's amendment, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HATFIELD. Mr. President, I now call up again the Pressler amendment and ask unanimous consent that Senators WYDEN, EXON, HARKIN, and BOXER be added as cosponsors.

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

Mr. HATFIELD. Mr. President, this amendment has been cleared on both sides of the aisle. Therefore, I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5136) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5137

Mr. HATFIELD. Mr. President, I send on behalf of Senator KEMPTHORNE an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. KEMPTHORNE, proposes an amendment numbered 5137.

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

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

The amendment is as follows:

On page 47 line 13 of H.R. 3675, strike "$5,000,000" and insert "$15,000,000".

Mr. HATFIELD. Mr. President, this is an amendment by Senator KEMPTHORNE that is budget neutral. It moves $5 million up to $15 million for national trail rehabilitation, which particularly suffered great damage in the Pacific Northwest during the floods of recent times. It has been cleared on both sides.

I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5137) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5138

(Purpose: To prohibit the issuance, implementation, or enforcement of certain regulations relating to fats, oils, and greases)

Mr. HATFIELD. Mr. President, I send an amendment on behalf of Senator PRESSLER to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. PRESSLER, for himself, Mr. HARKIN, Mr. GRASSLEY, Mr. LOTT, Mr. BOND, and Mr. LUGAR, proposes an amendment numbered 5138.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . LIMITATION ON FUNDS USED TO ENFORCE REGULATIONS REGARDING ANIMAL FATS AND VEGETABLE OILS.

None of the funds made available in this Act may be used by the Coast Guard to issue, implement, or enforce a regulation or to establish an interpretation or guideline under the Edible Oil Regulatory Reform Act (Public Law 104–55) or the amendments made by that Act does not recognize and provide for, with respect to fats, oils, and greases (as described in that Act or the amendments made by that Act) differences in—

(1) physical, chemical, biological, and other relevant properties; and

(2) environmental effects.

Mr. PRESSLER. Mr. President, earlier this year Congress passed the Edible Oil Regulatory Reform Act. That measure which became Public Law 104–55 was long overdue.

The Edible Oil Regulatory Reform Act addresses how Federal agencies regulate the shipment of edible oils, as compared with toxic oils. They require that agencies make a distinction between these two kinds of oils. This is extremely important to U.S. agricultural exports. Without Public Law 104–55, farmers faced a potential loss in agricultural exports and diminished farm income.

The law is simple and very straightforward. Unfortunately, the Coast Guard continues to issue regulations that do not comply with Public Law 104–55. The Coast Guard has issued regulations that do not provide relief to the oilseed industry due to the differentiation between shipments of edible oilseeds and shipments of toxic oils, such as petroleum.

Mr. President, the kind of enforcement found in the Coast Guard regulations was never congressional intent.

The amendment that I, and Senators HARKIN, GRASSLEY, LOTT, and BOND are offering today would prevent the Coast Guard from using funds to issue, implement, or enforce regulations or establish an interpretation or guideline that do not differentiate animal fats and vegetable oils from toxic oils. This amendment does not change the Oil Pollution Act of 1990 as it relates to toxic oils.

Without action, the Coast Guard regulations could inadvertently diminish U.S. agricultural exports. In addition, existing regulations could have a chilling effect on the development of new crops and new uses of crop production.

Farm exports are at all time highs. Future exports are expected to stay at record levels. The future for oilseeds is equally bright. However, current Coast Guard regulations could work against this progress. It has become clearly evident that existing regulations would seriously impact exports of U.S. agricultural commodities, especially vegetable oils and animal fats.

Unless we pass this amendment, U.S. animal fat and vegetable oil industries would be faced with lost export sales. Public Law 104–55 put common sense into Federal regulations regarding the shipment of animal fats and vegetable oils. The winners out of all this are our farmers and ranchers. Unfortunately, we have to pass this amendment to make sure that the Coast Guard abides by Federal law and congressional intent on this matter. I urge adoption of this amendment.

Mr. HATFIELD. Mr. President, this is an amendment, too, that has been cleared on both sides. It is an instruction, in effect, to the Coast Guard that as it continues its work on regulations of toxic materials, it make a differentiation between shipments of edible oilseeds and shipments of toxic oils, such as petroleum.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5138) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5139

Mr. HATFIELD. Mr. President, I send on behalf of Senators GORTON and BAUCUS an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. GORTON, for himself and Mr. BAUCUS, proposes an amendment numbered 5139.

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

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

The amendment is as follows:

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

SEC. . (a) In cases where an emergency ocean condition causes erosion of a bank protecting a scenic highway or byway, FY 1996 or FY 1997 Federal Highway Administration Emergency Relief funds can be used to halt the erosion and stabilize the bank if such action is necessary to protect the highway from imminent failure and is less expensive than highway relocation;

(b) In cases where an emergency condition causes inundation of a roadway or saturation of the subgrade with further erosion due to abnormal freeze/thaw cycles and damage caused by traffic, FY 1996 or FY 1997 Federal Highway Administration Emergency Relief funds can be used to repair such roadway.

(c) Not more than $8 million in Federal Highway Administration Emergency Relief funds may be used for each of the conditions referenced in paragraphs (a) and (b).

Mr. GORTON. Mr. President, along the southwest coast of Washington State, Highway 105 runs adjacent to Willapa Bay from Raymond to Aberdeen and provides an alternative route to Highway 101. While this route serves as the only direct access for residents of the Tokeland Peninsula and the Shoalwater Indian Reservation, it also acts as a dike protecting several cranberry bogs, a vital local industry, from saltwater inundation.

Unfortunately, the embankment supporting Highway 105 has eroded away under the pressure of the unstable forces in Willapa Bay. Unless something is done, preliminary engineering studies indicate that under existing conditions, the road will be washed into Willapa Bay, sometime within the next 2 years. This timeline would obviously be moved up if any type of storm hits the Washington coast later this winter. Water, telecommunications, and power utilities located within the highway right-of-way would also be severed if the highway is destroyed.

If no action is taken to remedy this problem, the estimated loss of public facilities, cranberry bogs, jobs and economic impacts is $82 million, not including additional socioeconomic impacts. An additional $40 million from the Federal Highway Administration Emergency Relief funds would also be required to relocate a new Highway 105.

A more appropriate and financially efficient alternative, in my opinion, would be to correct this problem before it becomes a reality. While diagnosing the problem, preliminary engineering studies also indicated that the erosion could be slowed considerably by dredging a relief channel in Willapa Bay, which would alter the flow of water that is currently undercutting the highway embankment.

Officials from the Washington State Department of Transportation are currently working with representatives from the affected communities to resolve this matter, however, funding continues to be the major obstacle. This prevention project, including both engineering and actual construction costs, would cost $10 million—$8 million from the Federal Highway Administration and $2 million in State and local matching funds.

I am aware that Congress no longer earmarks money in the Federal Highway Administration (FHWA) account of the Transportation appropriations bill, and therefore, I believe that the only appropriate funding available is possibly the FHWA Emergency Relief (ER) fund. While I recognize that this fund is traditionally dedicated to repairing Federal highways once a disaster has occurred, it seems that common sense dictates using $8 million to prevent a washout rather than spending $40 million to replace the road in less than 2 years.

I have been working with officials from the Federal Highway Administration, and they are aware of the pending road failure. While they support participating in this prevention project, they believe that legislative authority must be given to allow ER funds to be used in this manner. For that reason, my amendment provides legislative language in this bill that authorizes the Federal Highway Administration to use up to $8 million in Emergency Relief funds in order to prevent complete loss of the existing Highway 105.

By allowing these funds to be used in this manner, I estimate that the Federal Government will save approximately $30 million in future highway relocation funds, while also protecting the fragile environment and economy of Pacific County in Washington State.

In closing, let me thank Chairman HATFIELD for his consideration of this matter. Let me also applaud the efforts of the officials in Pacific County, as well as other individuals in the Washington State who have worked so carefully to ensure that this potential disaster is averted.

Mr. HATFIELD. Mr. President, this provides for definition of emergency funding that can be used to relieve the situation in both Montana and Washington State. It has been cleared on both sides. It is budget neutral.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, this is an amendment that, as the distinguished chairman has said, has been cleared by both sides. It is an important amendment to the State of Washington and, indeed, to Senator BAUCUS as well. It is a good amendment.

Mr. BAUCUS. Mr. President, essentially following up, I thank the managers for the amendment. There was a natural catastrophe in the State of Montana due to abnormal weather. This amendment helps that situation.

I thank the Senators.

Mr. LAUTENBERG. Mr. President, I have to reserve the right to object until we clear a matter here that, frankly, raises concerns. So I am sorry to say it, but we do have to take a couple of minutes to check this. Therefore, unless there is somebody else who we are going to go to, I would note the absence of a quorum.

Mr. HATFIELD. I apologize. I was told that it was cleared on both sides, I say to my comanager.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HATFIELD. Mr. President, let me return to the Gorton-Baucus amendment we were discussing a little bit earlier. We now have the clearance on the Democratic side, so I urge the adoption of that amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5139) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BURNS. Mr. President, I have an inquiry of the committee chairman, the Senator from Oregon [Mr. HATFIELD].

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. BURNS. I thank the Chair. If the chairman will recall, the committee, at its meeting of July 16, included language in the Committee Report offered by the Senator from Washington [Mrs. MURRAY]. This language concerned significant costs incurred by the mid-Columbia hydroelectric projects associated with fish and wildlife mitigation due to water releases from upstream Federal facilities and how the impacts of such costs to the mid-Columbia projects could be offset. My question is this: Should no all upstream project owners incurring the same costs, from the same water releases, be treated the same as the mid-Columbia project owners? For example, the Montana Power Co. incurs the same costs at their Kerr project at Flathead Lake and Thompson Falls project on the Clark Fork River due to the large releases from the Federal Hungry Horse project. The Washington Water Power Co. incurs the same costs at their Noxon Rapids and Cabinet Gorge projects on the Clark Fork River due to these same releases from the federally owned Hungry Horse project. Does the committee also urge the BPA to enter into the same equitable energy exchange with the Montana Power Co. and the Washington Water Power Co.? Their problems with these Federal water releases are the same as those of the mid-Columbia project owners.

Mr. HATFIELD. I thank the Senator from Montana. My answer is that, "yes", all projects incurring the same impacts from the Federal water releases associated with fish and wildlife mitigation should be treated the same. That provision in the report urges BPA to enter into equitable energy exchange agreements. Moreover, such agreements should not increase costs for BPA.

Mr. BURNS. I thank the Senator from Oregon, my constituents will be very pleased. Let us hope that Bonneville will faithfully follow the committee's urging on this matter.

Mr. HATFIELD. Mr. President, I think we are in sight of the goal line on this bill. If Members have amendments yet pending or have registered in their respective Cloakrooms an intention to offer an amendment by the terms relevant or whatever else, we would like to have them come now because we are down to the last handful of amendments and then final passage.

I do not anticipate any votes on the remaining amendments. I do not think they are that controversial, but I am just making a judgment. We are inquiring as to the leadership's view about putting the final passage vote over until tomorrow to relieve other Senators who are not involved in the amendment process. As soon as we get that information, I will relay it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. DEWINE). Without objection, it is so ordered.

AMENDMENT NO. 5140

(Purpose: To provide funding for the Institute of Railroad Safety)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON] proposes an amendment numbered 5140.

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

SEC. . THE RAILROAD SAFETY INSTITUTE.

Of the money available to the Federal Rail Administration up to $500,000 shall be made available to establish and operate the Institute for Railroad Safety as authorized by the Swift Rail Development Act of 1994.

Mr. EXON. Mr. President, this is something that the Senate approved last year. It is a very important matter with regard to railroad safety. The matter has been cleared on both sides, I believe. I urge its adoption.

Mr. HATFIELD. Mr. President, I urge its adoption.

The amendment (No. 5140) was agreed to.

Mr. EXON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. EXON. I thank the Chair and I thank the managers of the bill.

Mr. HATFIELD. Mr. President, I think we are down now to the last three or four amendments. I hope the Senators who have those amendments—I could enumerate the Senators by name, but I do not think I want to do that at this point—at least will have the courtesy to call the floor and tell us whether they are going to offer their amendments or not. Is that asking too much? Please, please, make it a little easier to complete our business here.

To the Senators who put a place hold on amendments to the respective cloakrooms, at least let us know whether you plan to do it or not. We have contacted some Senators. They say, "Oh, I'm not going to offer that after all," but we have not been informed. I think everybody's mother taught them better manners. So much for my lecture. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## COMMEMORATING THE 80TH BIRTHDAY OF DAVID BRODY

Mr. SIMPSON. Mr. President, just moments ago I left a reception for a friend, David Brody. I am very pleased to just rise briefly and commemorate the 80th birthday of one of the most remarkable men who it has been my privilege to know, Mr. David Brody.

He is perhaps best known to all of us in the Senate as the "101st Senator," which was a characterization appropriately applied to him in 1989 in a Senate resolution which passed unanimously.

That resolution was passed on the occasion of David Brody's so-called "retirement" from the Anti-Defamation League of the B'Nai B'rith. As I have previously noted in other remarks, it was most carefully phrased so as to avoid any mention of the word "retirement."

There is nothing "retiring" about David Brody—nothing. He remains the essence and embodiment of energy,

spirit, enthusiasm, and good will which he has always been.

It has been my personal pleasure on occasion to pay tribute to David Brody on the Senate floor, to participate in a retirement ceremony on his behalf several years ago, and most recently on March 11, 1993, on the occasion of the 50th anniversary of the wedding of Bea and David Brody. I have informed David that he and I have one thing in common for very certain above all others, and it is that we both "severely overmarried." The marriage and partnership of Bea and David enriches our lives in so many ways, a monument to their boundless love to each other, and to the innumerable good works of each of them individually.

So on David's 80th birthday, I am certain he will have cause to reflect on his good fortune in spending evermore time and more than the 50 years of life wedded to that fine lady. And all of us will have cause to reflect upon our own good fortune in having David with us for now 80 years.

And our wish for him is that he may have many more years of life to savor. My wife Ann and I wish him Godspeed and all our love. I thank the Chair and I yield the floor.

## HAPPY BIRTHDAY TO DAVID BRODY

Mr. GRASSLEY. Mr. President, the Senator from Wyoming, just a few minutes ago, addressed the celebration of the 80th birthday of a friend of the U.S. Senate, a friend of most every U.S. Senator, David Brody. There was a celebration of that on the Hill this evening.

It is most appropriate that Senators help David Brody celebrate his 80th birthday because he is so well known, he has been so active on the Hill, and he has been, in the truest sense of the word, a public-spirited person, a person who has been civic-minded about his responsibilities to Government. He has represented a lot of good causes, as he has interacted with Members of the U.S. Senate throughout his career on the Hill.

A few years ago, you could have read a newspaper article that stated it better than any of us could have. It was about how David Brody is respected. In that newspaper article he was referred to as the 101st Senator.

So I wish David Brody a happy birthday. I wish him and his wife well in the future. Happy birthday.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1997

The Senate continued with consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. HATFIELD. Mr. President, I have the following unanimous-consent agreement that has been cleared with the two leaders, Republican Senator TRENT LOTT and Democratic leader TOM DASCHLE.

I ask unanimous consent that, during the Senate's consideration of the transportation appropriations bill, the following amendments be the only first-degree amendments in order, subject to second-degree amendments which must be relevant to the first-degree they propose to amend, with the exception of the antiterrorism amendments, on which there will be 1-hour notification of the two leaders prior to the offering of any amendment regarding terrorism, and they be subject to second-degree amendments which must deal with the subject of terrorism.

The amendments are follows: Two relevant amendments by Senator LOTT; one relevant amendment by Senator MCCAIN; COHEN-SNOWE, truck weight limitations; GRAMM, highways; LOTT, six amendments regarding terrorism; MCCONNELL, bridge amendment for Kentucky; HATFIELD, relevant amendment.

For the information of all Senators, any votes ordered this evening will be stacked in a sequence beginning immediately following passage of S. 1936, with the first vote and all remaining votes in the voting sequence limited to 10 minutes only, and those votes will be ordered on a case-by-case basis. In light of this agreement on behalf of the majority leader, there will be no further votes this evening.

Mr. President, I want to amend what I said. I forgot to read the Democratic list of amendments that will be relevant and in order.

A Baucus amendment on highway obligation; five antiterrorism amendments by Senator BIDEN; a Bradley amendment on rail safety/newborns; BYRD, two relevant amendments; DASCHLE, two relevant amendments; DODD, an FMLA2 amendment; DORGAN, runaway plants and a relevant amendment; LAUTENBERG, two relevant amendments; REID, one relevant amendment; WYDEN, one relevant amendment, and WELLSTONE, one relevant amendment.

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

Mr. HATFIELD. Mr. President, I believe we have run the limit of our activity for the evening. As I indicated, by a leadership agreement, there will be no further votes this evening.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business.

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

## MARINE CORPS GENERALS

Mr. GRASSLEY. Mr. President, I have just received a letter from the Commandant of the Marine Corps, Gen. C.C. Kruluk.

General Kruluk's letter concerns the Marine Corps' request for 12 additional general officers.

His letter responds to a letter which I sent to the House conferees on the fiscal year 1997 Defense authorization bill.

My letter urged the House conferees to hang tough and block the Senate proposal to give the Marine Corps 12 more generals.

The Senate approved the Marine Corps's request. But the House remains opposed to it.

So the request for 12 additional generals is a bone of contention in the conference.

Mr. President, I ask unanimous consent that my letter to the conferees and the Commandant's response to it be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JULY 29, 1996.

Hon. CHARLES E. GRASSLEY:
*U.S. Senate, Washington, DC.*

DEAR SENATOR GRASSLEY: I have been provided a copy of the letter you sent to House Conferees concerning the proposal in the Senate Authorization Bill that would give the Marine Corps twelve additional general officers. While this responds to the issues raised in your letter, it has been my desire to meet with you in person to discuss this issue. I understand our staffs have finally worked out a time to do so, and I look forward to meeting with you on Wednesday.

Those familiar with the Corps know that we pride ourselves in squeezing the most out of every dollar that you entrust to your Marine Corps. The also know that we don't ask for something unless it is truly needed.

The main thrust of your letter is that the number of general officers should be reduced consistent with force structure reductions. Reduction in end strength does not necessarily have a one-to-one correlation with command billet reduction. Permit me to explain. As you have correctly stated, the Marine Corps in 1988 had a total active duty end strength of approximately 198,000, with a general officer population of 70. Today, we have an end strength of 174,000, and a general officer population of 68. That said, please note that the 82nd Congress mandated in Title X that our Corps of Marines be "so organized as to include not less than three combat divisions and three air wings,"—as it was in 1987, it is so organized today. This point is key: While the Marine Corps has reduced its end strength by 24,000 personnel, its

three division, three wing structure has remained essentially unchanged. Those familiar with the military know that the requirement for general/flag officers is tied directly to the number of combat divisions and air wings—and that number has not been reduced. Of the 70 Marine general officers in 1987, 11 were assigned to joint/external billets. Today, 16 of the 68 Marine general officers are serving in joint/external billets. Today we have 52 general officers manning essentially the same structure that was manned by 59 general officers in 1988.

Throughout our history, we Marines have prided ourselves in doing more with less. In the past, we have compensated for our general officer shortfall by "frocking" officers selected for the next higher grade to fill that position without the pay. While that practice has its own drawbacks, it did provide us with the requisite number of general officers to fill critical shortfalls. Last year, the Senate set increasingly strict limits on the number of general officers that the Services may frock. And I understand their rationale—the practice of frocking simply makes deficiencies in Service grade/billet structure. These shortages are indeed better addressed with permanent fixes rather than the stopgap measures such as frocking. This restriction on frocking, however, has placed the Marine Corps in an untenable position. Losing six of our nine blocking authorizations means that we would now have 46 general officers manning essentially the same structure that was manned by 60 general officers in 1987. This makes it critical that we have additional general officer allotments.

In response to your remark that we are "simply trying to keep up with the Joneses" let me offer this: Other Service ratios of general officer to end strength range from one general/flag officer for 1,945 troops to one general/flag officer to 1,435 troops. Excluding the Marine Corps, the Service-wide nominal ratio of one general per 1,620 troops would give the Marine Corps a minimum of 104 general officers. The twelve additional officers that the SASC has provided would give us a total of only 80—hardly keeping up with the Joneses!

Finally, this is a matter of providing quality, experienced leadership for our Marines. We are the nation's force in readiness, standing by to go into harm's way to protect U.S. interests globally. Providing these brave Americans with an adequate number of commanders and representation in the joint arena is not just prudent—it is the right thing to do.

Senator Grassley, I am convinced that these additional general officer billets serve the best interest of our Services and our national defense. I am also convinced that the solution is not to bring the other Services down to our untenable position, but rather to grant us the minimal increase we need to properly perform those functions Congress has mandated and our nation expects. Our meeting on Wednesday afternoon should be productive—I am looking forward to an honest and open dialogue. Semper Fidelis!

Very respectfully,

C.C. KRULAK,
*Commandant of the Marine Corps.*

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U.S. SENATE,
*Washington, DC, July 24, 1996.*

DEAR HOUSE CONFEREE: I am writing to encourage you to hang tough and do everything possible to block the Senate proposal that would give the Marine Corps 12 additional general officers.

The Senate argues that these additional Marine generals are needed to two reasons: (1) to fill vacant warfighting positions; and (2) to meet the requirements of the joint warfighting area mandated by the Goldwater-Nichols Act.

These arguments are nothing but a smoke screen for getting more generals to fill fat headquarters jobs.

In 1990, your Committee took a very straightforward, common sense approach to the question of how many general officers were really needed. Your Committee could see the handwriting on the wall. The military was beginning to downsize in earnest. As the force structure shrinks, your Committee said the number of general and flag officers should be reduced. New general officer active duty strength ceilings were established. The total number authorized had been set at 1,073 since October 1, 1980. The FY 1991 legislation reduced that number to 1,030 in 1991, including 68 for the Marine Corps. However, based on the projected 25% reduction in the force structure between 1991 and 1995, which in fact occurred, the number of general officers authorized to be on active duty was lowered to 858 by October 1, 1995, including 61 for the Marine Corps.

This is how your Committee explained the decision to cut the number of generals in 1990 (Report 101–665, page 268):

"The Committee believes that the general and flag officer authorized strengths should be reduced to a level consistent with the active force structure reductions expected by fiscal year 1995."

The Senate Armed Services Committee report contained identical language (Report 101–384, page 159). But the Senate committee linked the need for fewer generals directly to a projected 25% reduction in the force structure. In addition, it provided a more detailed justification for the lower ceilings as follows:

"The committee believes that these ceilings should assist the military services in making critical decisions regarding the reduction, consolidation, and elimination of duplicative headquarters. The ceilings should also assist the military services in eliminating unnecessary layering in the staff patterns of general and flag officer positions."

In reviewing your Committee's justification for lowering the general officer ceilings, there is no mention of the need to fill vacant warfighting positions—even though the Gulf War was looming on the horizon. And there was no mention of the need to fill joint billets mandated by Goldwater-Nichols.

Your Committee gave only one reason—the right reason—for reducing the number of general officers in 1990: The number of general officers should be reduced consistent with projected force structure reductions.

So what has changed since that legislation was adopted six years ago? Why has the Marine Corps fabricated a new rationale for more generals? Nothing has changed. DOD is continuing to downsize, and according to recent testimony by Secretary Perry, that process is expected to continue into the future (refer to page 254 of his Annual Report to Congress). Your guiding principle still applies: As the force structure shrinks, we need fewer general officers. It was valid then. It's still valid today.

So why is the Marine Corps trying to topsize when its downsizing? There is no reasonable explanation for giving the Marine Corps 12 extra generals. The extra 12 generals requested this year comes on top of an extra 7 Marine generals authorized just two years ago in special relief legislation.

In my mind, the issue boils down to one indefensible point: the Marine Corps is trying to keep up with the Joneses. This is a war over stars. The Marine Corps wants to have as many generals per capita as the other services. This is not the right way to resolve the problem. There is a better way. You should fix it in exactly the same way your Committee fixed it in 1990. You should fix it by giving each service the right number of generals—a number that matches the force structure.

I hope that reason prevails on this issue. At a minimum, I think the decision on the extra 12 Marine generals should be delayed until the Inspector General has conducted an independent review of all Department of Defense headquarters, commands, and general officer billets and determined exactly what is necessary based on real military requirements.

Sincerely,

CHARLES E. GRASSLEY,
*U.S. Senator.*

Mr. GRASSLEY. Mr. President, I would like to respond to General Krulak's letter.

This is the main point in his letter, and I quote General Krulak's own words:

The main thrust of your letter is that the number of general officers should be reduced consistent with force structure reductions.

This is General Krulak talking:

The reduction in end strength does not necessarily have a one-to-one correlation with command billet reduction.

He goes on to say:

This point is key: While the Marine Corps has reduced its end strength by 24,000 personnel, its three division, three wing structure has remained essentially unchanged. Those familiar with the military know that the requirement for general/flag officers is tied directly to the number of combat divisions and air wings—and that number has not been changed.

Mr. President, I would like to respond to General Krulak.

First, the suggestion that the number of generals should be reduced consistent with force structure reductions is not a rule dreamed up by the Senator from Iowa.

The rule was first put forward by the Senate Armed Services Committee years ago.

It has been expressed by the House Armed Services Committee.

It was the guiding principle used in formulating current law.

It is still in current law—section 526 of title 10, United States Code.

That law places a ceiling on the number of generals and admirals allowed on active duty.

This is the rule behind the law:

As the force structure shrinks, the number of generals and admirals should come down.

If the force structure expands, then the number of generals and admirals should go up.

That simple, commonsense logic has guided military planners since time began.

Second, General Krulak agrees that end strength has fallen.

However, he contends that the Marine Corps' combat force remains essentially unchanged.

Let's briefly review the facts.

In fiscal year 1987, Marine end strength was 199,525, including 70 generals.

Today, the fiscal year 1996, there are 172,434 marines, including 68 generals.

While end strength is down and two generals are gone, the Marine Corps still has three divisions and three airwings.

General Krulak is right about that. The force structure is intact.

Unfortunately, it's not whole. Some troops are missing.

The end strength is down by 27,091 Marines.

If the structure is still there, but some people are gone, that's a hollow force, isn't it?

Mr. President, is another hollow force creeping out of the Pentagon fog?

Mr. President, on July 17, I placed a Marine Corps briefing paper in the RECORD, page S7986.

That paper was entitled "Making the Corps Fit To Fight." It was dated April 1996.

This is what it says:

Marine infantry battalions are at 57 percent of authorized requirements for platoon sergeants.

If that's true, then the Marine Corps structure is already getting hollow.

A Marine platoon can't function without a good sergeant.

Mr. President, do we need more generals to lead a hollow force?

Clearly, a hollow force doesn't demand more generals. Nor does a static force demand more generals.

Only a bigger force demands more generals, and that isn't in the cards right now.

Third, General Krulak introduces another argument to justify his request for more generals.

This one is designed to de-couple the issue from the force structure. This is how he tries to undo the logic.

He says he needs 12 more generals to fill joint billets mandated by the Goldwater-Nichols Act of 1986.

It's a distortion to suggest that Goldwater-Nichols mandates more generals when the force structure is shrinking.

Joint billets—just like service billets—should be squeezed as the force structure shrinks.

This is the message hammered home by Marine Gen. John Sheehan:

"Headquarters and defense agencies should not be growing as the force shrinks."

That's General Sheehan, commander in chief of the U.S. Atlantic Command.

All the data points indicate that downsizing is continuing and will continue for the foreseeable future.

So the argument that more generals are needed to fill joint billets doesn't hold much water, either.

A few years back, the Marine Corps had another commandant. His name was Al Gray.

He was tough as nails. He was known as a mud marine.

He didn't look at the Marine Corps' needs like a bureaucrat would. He looked at it like a Marine—from the bottom up, starting with platoons and companies.

In a December 1987 interview with the Chicago Tribune, General Gray talked about his plans to fill his units with people from the bottom up. I quote:

'If the Marines fill their need for officers and troops before they get to the big headquarters in Washington,' he said with a grin, 'that might be a blessing in disguise.'

Mr. President, I ask unanimous consent that this interview be printed in the RECORD.

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

[From the Chicago Tribune, Dec. 13, 1987]

MARINES: MYTH VERSUS REALITY

MODERN CORPS IS BIG, COSTLY, HEAVY ON SUPPORTING CAST

(By David Evans)

WASHINGTON—The Marines have a new commandant, Gen. Alfred Gray, a veteran of the Korean and Vietnam Wars. He's characterized by marines who know him as a self-taught thinker and a "warrior's warrior."

He inherits not one, but two Marine Corps. One is the corps of myth: small, cheap, and mostly fighters. A Marine Corps, if you will, designed to kick down the door of a defended coastline and put a lot of grunts on the beach in a hurry and looking for a fight.

Then there's the real Marine Corps: big, expensive, and with relatively few fighters but a big supporting cast. This real corps plans to land ashore where the enemy isn't.

Al Gray isn't very happy with this real corps.

"We're going to make some changes," he growls. "It's time for a fresh, simple look."

People are not his problem. Today's young marines are the highest quality ever, by any measure. They're enough to make a hard-boiled commander's eyes water with joy.

The real problems are deeper, and structural. They have to do with the rising cost of the Marines, a tail-wagging-the-dog support structure that pulls marines out of fighting units, and a new-found addiction to costly, exotic equipment.

Gray is already grousing about some of these problems.

"Americans expect their Marine Corps to put fully manned infantry battalions into the field," he said in a recent interview, "not units missing 100 or more troops."

That's an unusual admission from the man in charge of a corps of 20,000 officers and 180,000 enlisted marines. But over the years the corps bought equipment that took more people to maintain and repair, and it created more and larger headquarters units. These competing demands for manpower, in secondary support and headquarters activities, siphoned marines out of the fighting units.

The slogans remain—"Every marine is a rifleman"—and ringing speeches are still made about the infantryman as the corps' ultimate weapon. But in the real Marine Corps, the infantryman is steadily becoming an endangered species. Of the 180,000 enlisted marines, about 33,000 are officially designated as infantrymen.

Throw in the artillerymen, tank crews and combat engineers, and the total number of enlistees in the "combat arms" amounts to barely 51,000. Instead of closing with and destroying the enemy, the traditional role of marine fighting men, nearly three out of four enlisted marines are now doing something else; repairing equipment, hanging bombs on airplanes, driving trucks.

In this respect, the Marine Corps looks very much like the U.S. Army, where three out of four active-duty soldiers are in support functions, too.

Mark Cancian, a Marine Reserve major, sums up recent trends with this observation: If the corps' structure of 1962 were in place today, a structure that featured larger infantry battalions and less logistics support, "there would be 17,000 more marines in Marine divisions—one entire division's worth."

"Another insight," says Cancian, "is to look at the number of 'trigger pullers' in the division."

These are the marines who personally deliver fire on the enemy: the riflemen, artillery cannoneers, tank crews. Everybody else is helping to coordinate and support that fire, but the number of trigger pullers amounts to barely 7,500 in a division of 17,500 enlisted marines.

There are barely 22,500 "trigger pullers" in all three active divisions. Add a few hundred pilots flying close air support, say 500, and there are perhaps 23,000 marines in a corps of 200,000 whose primary duty is to personally fire on the enemy.

Most of these "trigger pullers" are found in the 27 infantry battalions that represent the cutting edge of the corps. Those battalions may be short the infantrymen they need, but they have plenty of headquarters over them: 29 regimental and higher level headquarters, in fact.

If the Marines have grown top-heavy with headquarters units, they've also become harder to move. Too heavy for easy deployment, despite Gen. Robert Barrow's warning as commandant in 1980 that the corps "should be light enough to get there, and heavy enough to win."

Artillery is an instructive example. The Marines "heavied up" their artillery from 105 mm. to 155 mm. howitzers, in part because the Army was shifting to heavier artillery, and in part because of the long range of Soviet guns. But the new howitzer has to be disconnected from the truck that pulls it before being loaded into the standard medium-size landing craft. And the truck doesn't have enough power to pull the gun through sand, so a forklift has to be waiting on the beach to pull the gun ashore.

Air units are more difficult to move, too. The Marines are replacing their aging F-4 fighters with new F-18s. According to the maintenance officer of a fighter group of 60 aircraft, the number of maintenance vans that must accompany the same number of F-18s went up 72 percent, from 150 vans to 260.

The Marines have become so heavy that the supplies for a full-up amphibious force of 50,000 marines fill about 6,800 containers, each as big as a small bus. Landed ashore, the containers blanket a huge area.

"About 22 acres of nothing but boxes," says a colonel, who asks: "Can we afford a target that large?"

"Amphibious operations by their very nature require bulldozers and other heavy equipment," explains Lt. Col. Ken Estes, a staff officer at Marine headquarters.

All those support marines, the heavier equipment and the stacks of supplies cost more money. An E-3 lance corporal in an infantry squad costs $15,600 a year in pay and benefits; and E-6 staff sergeant clerking in a headquarters unit costs $22,800.

The new truck carries the same 5-ton load as the vintage model it replaces, but costs $31,000 more (in constant 1986 dollars.)

Heavier artillery shells for the new howitzer cost 160 percent more.

These are just a few examples of the thousand different ways the corps' appetite for money has ratcheted steadily upward.

The Marines are no longer the K mart of national defense; they are smack in the mainstream of an upscale defense establishment where costs are rounded to the nearest tenth of a billion dollars.

The corps' annual budget now hovers at $9 billion. Since the Navy buys airplanes for the Marines out of its "blue dollar" budget, the real cost of the corps runs closer to $13.7 billion a year, according to Pentagon budget experts.

Even the Marines may not realize how expensive they have become. In 1976 the total cost of equipping, paying and training each marine was about $37,000. That's in equivalent 1987 dollars. Since then, the per capital cost has rocketed to $68,000 for each marine—a stunning 83 percent increase. Part of that jump is the extra pay for more experienced marines, with the rest driven by the rising price of equipment and operations.

The cost is still less than the $104,000 the Army spends for every soldier, but the difference is narrowing, and fast.

If the taxpayers cannot afford the money-rich diet to which the Marines have grown accustomed, the Navy can't, either. Or at least it can't afford enough of the kind of highly specialized amphibious ships the Marines want.

The biggest new class of amphibious ships, for example, costs more than $1 billion and figures prominently in the planned expansion of the amphibious fleet from 62 to 76 vessels.

The Marines have rejected cheaper ships as a solution to the numbers problem. One design concept, known in the pentagon by the codeword LTAX, would have provided the same carrying capacity as the large amphibious ships now under construction, but at one-fourth their billion-dollar cost.

"LTAX didn't have the built-in survivability or creature comforts," admits a Pentagon naval expert, "but it would have provided a way of complementing the limited number of true amphibious ships we can afford."

If the Marines have erred by growing too heavy for easy deployment, they've also strayed from Gen. Barrow's timeless dictum by not being heavy enough in the right areas to win. In antitank combat, for example, the Marines' problem is more than serious—it is critical.

With the exception of the TOW missile, the Marines' infantry antitank weapons are not up to the job, according to a recent General Accounting Office report on antitank weapons. The warhead on the shoulder-launch AT-4 antitank rocket is too small for assured frontal kills against attacking Soviet tanks. Critics, including some marines, call the AT-4 "the paint scratcher."

Worse, the Marines probably are not buying enough TOWs. Their planned consumption rate in combat is one TOW missile per launcher every two days.

The Marines have had the Dragon medium-weight antitank missile for a decade, but its accuracy and punch are dismal. In combat, the GAO estimates the Dragon may hit the target only 8 out of 100 shots. Although the corps is upgrading the Dragon with a new warhead and sight, it will be years before the new weapons are in the hands of troops.

Moreover, the new warhead adds 2½ pounds to the missile's weight, which skeptics claim will reduce the Dragon's range. The first block of "improved" missiles may be less accurate, because the pulse rockets used for guidance corrections will be used up faster to counteract the added weight.

Maj. Gen. Ray Franklin, in charge of the Dragon improvement project, claims initial warhead tests are "very impressive." He's hoping to field 15,000 new missiles for $60 million.

Other experts aren't so sure.

"They're getting super performance from prototype warheads," says an ammunition expert, "and they're having nothing but problems trying to produce them in quantity."

He believes the Dragon costs "are going to go out of sight" even if the production problems are solved, and Franklin won't get nearly what he hopes for the money.

If Marines on the ground aren't equipped to kill tanks, they'll need air support to do the job.

At enormous expense—$5 billion—the Marines have equipped five squadrons with British-designed AV-8B Harrier close air support jets. The Harrier doesn't have the right weapon for killing tanks, say a number of weapons experts familiar with its performance in live-fire tests.

The Harrier's 25 mm. cannon was tested extensively against tanks at Nellis Air Force Base in 1979. In 24 passes, the Harrier fired hundreds of shells, getting plenty of hits but not a single kill. Reportedly all but seven of the shells bounced off the tanks' armor. Test reports reveal the Air Force's 30 mm. cannon did much better, killing tanks in 60 percent of the firing passes.

Tom Amlie, a Pentagon weapons expert, says the Harrier's 25 mm. gun "is too heavy for light work [shooting up trucks], and it's too light for the heavy work of killing tanks."

It may be suicidal for Harrier pilots to press their attacks to gun range, anyway. There isn't an ounce of armor on the Harrier, and its engine is wrapped in fuel tanks. A Naval Air Systems Command briefing reveals the Harrier is 10 times more vulnerable to ground fire, given a hit, than the Marines' F-18 fighter, and 20 times more vulnerable than the Navy's A-7 attack jet.

Instead of flying Harriers into the teeth of the thousands of automatic weapons found in a Soviet motorized rifle division, the preferred method is to employ so-called "stand-off" weapons. These are missiles or bombs that can be guided to their targets from outside the range of enemy weapons.

"That's why they're ga-ga for laser-guided Maverick missiles," concludes E.C. Myers, former director of air warfare in the Pentagon.

The Maverick is tricky to use against tanks, however. Of 100 Harrier test runs against tank targets in 1985, the Center for Naval Analysis found the pilots were successful in finding, locking-on and firing only 6 percent of the time.

The Marines could use their F-18 fighters armed with Rockeye cluster bombs against tanks. Because the Rockeye spreads bomblets over a wide area, it cannot be employed close to front-line marines. Even so, it is not a very effective weapon. Defense Department munitions effectiveness manuals indicate that four Rockeyes have less than 50 percent chance of killing one tank.

The real Marine Corps, it seems, is ill-equipped, both on the ground and in the air, to defeat massed tank attacks. And this kind of attack is the Sunday punch of the Soviet army and Third World armies equipped with Soviet weapons.

"We're not pleased with what we have for air work against tanks," admits Maj. Gen. Charles Pitman, the assistant chief of Marine aviation. He hopes improved Mavericks will solve the problem.

Perhaps the biggest problem is whether the country can afford the Marines' ambitious plans for the future.

The Marines are touting a new landing concept.

"We have to come from over the horizon," says Gen. Gray, to avoid exposing the amphibious fleet to shore-based antiship missiles.

But new equipment is needed to carry troops and equipment the greater distance to the beach. One is a hovercraft called LCAC (for Landing Craft Air Cushion,) which can "fly" over underwater and beach obstacles.

The Marines also say they need a new kind of aircraft called the MV-22 tilt-rotor. The MV-22 will take off like a helicopter and fly like an airplane, tilting its engines to again land like a helicopter. The new tilt-rotor would be used land marines as far as 25 miles inland.

Freed of traditional beach landing restrictions, the Marines say they can threaten a much wider coastline. The enemy commander, accordingly, will be forced to choose between spreading his forces or leaving large areas undefended.

The Marines plan to exploit either choice by punching through a weak and over-extended cordon defense, or by landing at undefended spots to quickly build up forces ashore, before the enemy can move and counterattack.

"If we're going to land where the enemy isn't," observes one colonel who's skeptical of the new concept, "why bother staying way offshore, over the horizon? We have enough trouble landing at the right spot from 4,000 yards offshore."

"For the actual landing," he says, "we've moved the mother ships from 4,000 yards offshore to 25 miles. We've increased the distance more than 12 times, but the hovercraft is only 5 times faster. We're worse off."

The speed advantage of the tilt rotor over current helicopters may be illusory, too. Three out of four tilt-rotor helicopters making the 50-mile trip from ship to inland landing zones will be toting loads that are too big and heavy to be carried inside. They'll be slung underneath, and some pilots say these "external" loads will reduce the tilt-rotor's speed further.

The experimental tilt-rotor now flying has never carried an external load.

Ultimately, the marines must use beaches accessible by conventional landing boats anyway. The new hovercraft and tilt-rotor aircraft will carry ashore only 12 percent of the troops, 6 percent of the vehicles and two-tenths of 1 percent of the ammunition and supplies. Everything else will have to be moved ashore in conventional landing craft, which will be restricted to the 17 percent of the world's coastlines where the water and beach conditions are suitable.

"The enemy will know the entry points on his own coastline that lead to meaningful objectives," says a former Defense Department official who questions the new landing concept. "That's where he's going to defend, and that's the ground the marines will have to take."

"We delude ourselves by retaining the 'assault' label," says Col. Gordon Batchellor, a highly regarded tactician, "as we quietly build a scenario where movement, but no assault, occurs."

This force structure, he maintains, "will be useless when a true assault is called for."

The new landing concept is expensive. Each air-cushioned hovercraft costs $20 million and can carry a single 70-ton tank ashore. For the same money, the Navy could buy four heavy "utility" size landing craft, called LCUs, each of which carries 175 tons.

A study by the House Armed Services Committee concluded the tilt-rotor aircraft will cost more than $35 million apiece; the CH-53E helicopter, which can carry twice the payload, costs $16 million. The extra speed and range being built into the tilt-rotor make up $15 billion of the total $25 billion cost of this program.

The Marines are buying into a number of hugely expensive and technically risky programs like the tilt-rotor. With these systems, they can range up and down enemy coastlines, jabbing here and there, but the Marines may well be giving up the capability to deliver the body blows of serious war fighting.

Gen. George Patton, no stranger to amphibious operations, once said: "A sparrow can outmaneuver an eagle, but he is not feared. Speed and mobility not linked with fighting capacity are valueless. Wars are won by killing."

Yet it seems the sparrow is the Marine Corps look for the future.

This situation may be perfect for Al Gray. After all, the warrior is the man of bold decision in the face of adversity, and Gray, as "peacetime warrior," is facing monumental problems. His budget is a fiscal Mt. St. Helens, unable to contain the explosive pressures of bills now coming due for costly programs started years ago.

"I don't believe in watering down our requirements," he says, but he's also sending out strong signals that some requirements may be revised. "We're going to look from the bottom up," he says, at the entire Marine Corps, "starting with platoons and companies."

Gray plans to fill the units with people from the bottom up, too. If the Marines fill their need for officers and troops before they get to their big headquarters in Washington, he grins, "that might be a blessing in disguise."

He wants to move with breath-taking speed, bringing all the infantry battalions up to full strength by next summer, adding a fourth rifle company to each battalion as well. Those two actions will put almost 6,000 infantrymen back into the cutting edge.

"We're going back to everybody being an infantryman, too," Gray promises. And he wants extra combat training for all marines, regardless of speciality. "The way we used to do it," he adds.

What else can he do? A number of civilian experts and Marine officers concerned about the future of the corps suggest a few basic actions.

Eliminating unnecessary staffs is near the top of the list. More than half of them are not needed under the most demanding Pentagon plan for the Marine Corps, which calls for the simultaneous employment of an amphibious force and four brigades. Those commitments require only 13 of the 29 regimental and higher-level staffs the Marines now have, leaving 16 of them unemployed.

At one stroke, Gray could cut the headquarters overhead by 55 percent, saving millions of dollars in manpower costs that could be applied elsewhere.

With a quick trip to Europe, Gray can get the weapons that marine infantrymen need to kill tanks. European antitank weapons are generally heavier than their American equivalents, largely because they have bigger warheads. The West Europeans, who live much closer to those 50,000 Soviet tanks, build weapons to kill them.

The Marines don't have to wait years for an improved Dragon, which still exists largely as a "paper" design. The West German Panzerfaust III and the French Apilas, two shoulder-launched rockets now in production, are good for short-range work. For longer-range antitank engagements, the Milan missile, combat-proven in Chad, is available.

The Marines could buy 30 mm. gun pods to strap onto their close support aircraft.

"The gun is the only way to kill tanks in close," says Rep. Denny Smith (R., Ore.), who is prepared to help Gray get the pods. They're cheap at roughly $300,000 each.

For the price of half the Maverick missiles the Marines want to buy, they could buy 30 mm. gun pods for every jet aircraft in the corps. And they'd still have three times the 800 Mavericks they now possess.

Among the corps' friends and critics, there is a nearly universal belief that the Marines have lost focus. Instead of concentrating on the basics, says Smith, "they're trying to capture hardware programs for a bigger budget share."

A number of Pentagon officials, who prefer to remain anonymous. echo those sentiments, citing the "over-the-horizon" landing concept as little more than a technical scenario for justifying expensive new programs like the hovercraft and the tilt-rotor.

The concept that epitomizes what may be the most important problem Gray inherits: the pervasive failure to separate tactical needs from technical wants.

Tactically, the Marines needed a close air support aircraft. Technically, they lusted for the Harrier, a jet that could take off and land vertically. Now, they've got the most vulnerable close air support airplane in the world.

Tactically, the Marines needed lots of landing craft to get to the beach. Technically, they coveted the air-cushion hovercraft, which is quite literally a "helicopter with the roof off." Now they've sacrificed the build-up rate ashore.

Gray appears to be sensitive to these problems. While he remains outwardly committed to the Harrier and the tilt-rotor program, he worries about the pervasive fascination at the staff level with "programmatic forces" instead of real "fighting forces."

However, Gray is also sending out mixed signals to the working level marines who have to translate his reformist zeal into detailed plans and budgets. For example, he wants to buy an assault gun, a form of light tank, which resurrects a weapon that failed miserably in World War II.

When the Marines start sorting out their must-have tactical needs from nice-to-have technical wants, they're likely to discover a lot they can do without.

They just might figure out a way to produce a Marine Corps the country can afford.

If Gray is successful in making the real, the heavy and expensive corps more like the lean, tough, deployable Marine Corps of myth, the Marines will be restored to what he calls "real preparedness."

"Anybody can have a bag full of numbers to look good," he says. "We're going to make sure we have the right people and organizations for combat.

Mr. GRASSLEY. If General Krulak would look from the bottom up, instead of the top down, he would quickly realize that sergeants and lieutenants are needed more than generals.

Mr. President, I will be meeting with General Krulak in the near future to discuss this issue.

I hope we both come away from this meeting with a fresh perspective on what the Marine Corps really needs right now.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

## DECISION BY THE FIRST CIRCUIT COURT OF APPEALS

Mr. BIDEN. Mr. President, I rise this evening to discuss a decision handed down by the First Circuit Court of Appeals, and I will be introducing a bill to correct what I think was a serious mistake the court made.

Mr. President, let me briefly discuss the court's decision. A few months ago, the First Circuit Court of Appeals made, in my view, a serious mistake—a very big mistake. It said that the term "serious bodily injury," a phrase used in one of our Federal statutes, does not include the crime of rape.

Mr. President, let me tell you about this case. One night near midnight, a woman went to her car after work. While she was getting something out of the back seat of her car, a man came up behind her with a knife and forced her into the back seat of her own car. He drove her to a remote beach, ordered her to take off her clothes, made here squat down on her hands and knees, and he raped her. He raped her. After the rape, he drove off in her car, leaving her alone on the side of the road naked.

This man was convicted under the Federal carjacking statute. That statute provides for an enhanced sentence of up to 25 years if the convicted person inflicts serious—the term of art—serious bodily injury.

If he inflicts serious bodily injury in the course of the carjacking, the statute provides for an enhanced sentence, a longer sentence, of up to 25 years.

When this case got to the sentencing phase, after the defendant had been convicted of raping the woman in the manner that I just pointed out, the prosecutor asked the court to enhance the sentence, because under the statute if serious bodily injury occurred, then an additional 25 years was warranted. And the prosecutor reasoned, as I do, that rape constituted serious bodily injury.

The trial judge agreed with the prosecutor and gave the defendant the statutory 25-year maximum, finding that rape constituted serious bodily injury. But when the case went up to the First Circuit Court of Appeals, that court said no. It said, if you can believe it, that rape is not serious bodily injury.

Mr. President, I have spent the bulk of my professional career as a U.S. Senator and prior to that as a lawyer making the case that we do not take seriously enough in this country the crime of rape, and until we do we are not going to be the society we say we wish to be and we are not going to impact upon the injury inflicted on women in this society.

But the Circuit Court of Appeals ruled that rape does not constitute serious bodily injury under our statute. To support its ruling—and I am now quoting the opinion of the First Circuit Court of Appeals—the court said: "There is no evidence of any cuts or bruises in her vaginal area."

I apologize for being so graphic, but that is literally a quote from the court ruling. That, in my view, is absolutely outrageous.

Senator HATCH and I and Congressman CONYERS in the House are going to be offering a bill to set matters straight. Under the U.S. Criminal Code, serious bodily injury has several definitions. It includes a substantial risk of death, protracted and obvious disfigurement, protracted loss or impairment of a bodily part or mental faculty, and it also includes extreme physical pain. It takes no great leap of logic to see that a rape involves extreme physical pain. And I would go so far as to say that only a panel of male judges could fail to make that leap and even think, let alone rule, that rape does not involve extreme pain.

Rape is one of the most brutal and serious crimes any woman can experience. It is a violation of the first order, but it has all too often been treated like a second-class crime. According to a report I issued a few years ago, a robber is 30 percent more likely to be convicted than a rapist. A rape prosecution is more than twice as likely as murder prosecutions to be dismissed. A convicted rapist—and I want to get this straight—is 50 percent more likely to receive probation than a convicted robber. And you tell me that we take this crime we say is one of the most heinous crimes that can be committed by one human being on another seriously?

Look at those statistics. We treat robbery—robbery—more seriously than we do rape. No crime carries a perfect record of arrest, prosecution and incarceration, but the record for rape is especially wanting. The first circuit decision helped explain why, in my opinion. Too often our criminal justice system, as the phrase goes, just doesn't get it when it comes to crimes against women.

I acknowledge men can and have been raped as well, and a similar infliction of pain occurs, but the fact is well over 95 percent of the rapes are rapes of women.

If the first circuit decision stands, it would mean that a criminal would spend more time behind bars for breaking a man's arm than for raping a woman. If a carjacking occurred, and I was the man whose car was carjacked, and in the process of the carjacking my arm was severely broken, for that fellow who was convicted of raping the woman, had he broken my arm, there is no doubt the prosecution's request for an enhanced penalty of 25 years would have been upheld.

Think of that. We have a statute on the books that says you can enhance a penalty to 25 years for carjacking and inflicting serious bodily harm. Had it been a man with a broken arm, that guy would have been in jail for 25 years. But this was a woman who was raped. The court said, no, it does not meet the statutory requirement of serious bodily injury.

For 5 long years, Mr. President, I worked to pass a piece of legislation that I have cared about more than any other thing I have done in my entire Senate career and the thing of which I am most proud. That is the Violence Against Women Act. My staff and I wrote that from scratch. It took a long time to convince our colleagues and administrations, Democrat and Republican, that it was necessary. For 5 long years we worked to pass that law.

The act does a great many practical things. It funds more police and prosecutors specifically trained and devoted to combating rape and family violence. It trains police, prosecutors and judges in the ways of rape and family violence so that they can better understand, as, in my view, the first circuit did not understand, the nature of the problem and how to respond to the problem.

The violence against women legislation provides shelter for more than 60,000 battered women and their children. It provides extra lighting and emergency phones in subways, bus stops and parks because of the nature in which the work force has changed.

The woman sitting behind me who helped author that legislation is here at 9:30 at night. In my mother's generation, there were not many women who left work at 9:30 or 10:30 at night. Today, there are millions and millions, like men, who do, and we recognize the need to protect them better than they have been by providing the most effective—the most effective—crime prevention tool there is: lighting. It provides for more rape crisis centers. It sets up a national hotline that battered women can call around the clock to get advice and counseling.

I am working on the ability for them when they call to also be able to get a lawyer who will handle their case pro bono—for free—and help guide them through the system. They were getting rape education efforts going with our young people so we can break the cycle of violence that begets violence.

I might note parenthetically, one of the reasons I wrote this legislation initially, the Violence Against Women Act, is that I came across an incredible study, a poll done in the State of Rhode Island, of, I think, seventh, eighth and ninth graders. I am not certain, to be honest. I think seventh, eighth and ninth graders.

It asks, in the poll conducted, the survey, "If a man spends $10 on a woman, is he entitled to force sex on her if she refuses?" An astounding 30-some percent of the young men answering the question said, "Yes." But do you know what astounded me more? Mr. President, 25 percent of the young girls said "yes" as well. We have a cultural problem here that crosses lines of race, religion, ethnicity, and income. We just do not take seriously enough the battering of our women—our women, is the way our friends like to say it—of women in this country. This is especially true when it comes to victims who know their assailants. For too long we have been quick to call these private misfortunes rather than public disgraces.

The Violence Against Women Act also meant to do something else beyond the concrete measures that I mentioned. It also sent a clarion call across the land that crimes against women will no longer be treated as second-class crimes. For too long the victims of these crimes have been seen, not as innocent targets of brutality, but as participants who somehow bear some shame or even some responsibility for the violence inflicted upon them.

As I said, this is especially true when it comes to victims who know their assailants. For too long we have been quick to call theirs a private misfortune rather than a public disgrace. We viewed the crime as less than criminal, the abuser less than culpable, and the victim as less than worthy of justice.

In my own State of Delaware, until recently, if a man raped a woman he did not know, he was eligible, if he brutally did it, to be convicted of first-degree rape. But do you know what? We had a provision in our law, and many States had similar provisions, that said if the woman knew the man, if the woman was the social companion of the man, then he could only be tried for second-degree rape, the inference being that somehow she must have invited something because she knew him, she went out with him.

It seems to me we have to remain ever vigilant in our efforts to make our streets and our neighborhoods and our homes safer for all people, but in this case particularly for women. We need to make sure right now that no judge ever misreads the carjacking statute again and undermines the overwhelming purpose of my legislation in the first place, which was to change the psyche of this Nation about how we are to deal with the brutal act of rape. It is not a sex crime, it is an act of violence, a violent act.

Now, one of the most respected courts in the Nation has come down and said it does not constitute serious bodily injury. So, Mr. President, we need to make sure right now that no judge ever misreads the carjacking statute again. We need to tell them what we intend, what we always intended, that the words "serious bodily injury" mean rape, no ifs, ands, or buts. The legislation, a bill to be introduced by myself and Senator HATCH and others, does just that. It says, and I will read from one section:

Section 2119(2) of title 18, United States Code, is amended by inserting ", including any conduct that, if the conduct occurred in the special maritime or territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title" after "(as defined in section 1365 of this title)".

Translated into everyday English it means, serious bodily injury means rape. No judge will be able to, no matter how—I should not editorialize. No judge in the future, once we pass this legislation, will be able ever again to say that serious bodily injury does not include rape.

I thank Senator HATCH, and I would like to particularly thank Demetra Lambros, who is sitting behind me, a woman lawyer on my staff who worked with Representative CONYERS' staff to write this legislation, for the effort she has made and for calling this to my attention. I also thank Senator HATCH, who has always been supportive and very involved in this, and his staff, and Congressman CONYERS, the ranking member of the House Judiciary Committee.

I am confident if every Member—this is presumptuous for me to say, Mr. President—but as every Member of the Senate becomes aware of what this does, I cannot imagine there is anyone here or anyone in the House who will not support it.

I thank the Chair. I realize the hour is late. I thank the Chair for indulging me. Tomorrow, hopefully, we will be in a position to bring this legislation up and pass it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

## MORNING BUSINESS

Mr. GRASSLEY. Mr. President, for our distinguished majority leader, I make the following request. I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

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

## MARITIME SECURITY PROGRAM

Mr. LOTT. Mr. President, I have always been a strong supporter of the U.S.-flag merchant marine, and America's maritime industry. That is why, last year I introduced the Maritime Security Act of 1995. This bill is the product of nearly a decade of bipartisan and bicameral effort. It will reform, streamline, and reduce Federal support for the U.S.-flag merchant marine, while at the same time revitalizing our U.S.-flag fleet.

The starting point for the Maritime Security Program is the simple and valid premise that America's merchant marine is a vital component of our military sealift capability.

Thus, in order to protect our military presence overseas, we must have a modern, efficient, and reliable sealift. On this point, the assessment of our Nation's top military leaders is unequivocal. Our military needs a U.S.-flag merchant marine to carry supplies to our troops overseas. We cannot, in fact, we must not, rely on foreign ships and foreign crews to deliver supplies into hostile areas.

Just recently I receive a letter from Adm. Thomas Moorer, the former Chairman of the Joint Chiefs of Staff, and Rear Adm. Robert Spiro, a former Under Secretary of the Army. They both enthusiastically endorsed the legislation. I have added this letter to a stack of letters sitting on my desk from many other distinguished military leaders who also have strongly backed the Maritime Security Act.

Not long ago, I also received endorsements of the Maritime Security Act from the Honorable John P. White, the current Deputy Secretary of Defense, and the Honorable John W. Douglass, the current Assistant Secretary of the Navy for Research, Development and Acquisition.

I also have received numerous letters from members of the Navy League of the United States.

Clearly, there is visible support from both the active and retired military community for the recognized value of this program.

The Maritime Security Act will ensure that our Nation will continue to have access to both a fleet of militarily useful U.S.-flag commercial vessels, and a cadre of trained and loyal U.S.-citizen crews. What's more, under this bill our military planners will gain access to the onshore logistical and intermodal capabilities of these U.S.-flag vessel operators. Instead of just getting a ship, our military gets access to port facilities worldwide, state-of-the-art computer tracking systems, intermodal loading and transfer equipment, and so on. And our Nation get these benefits for less than half the cost of the current program.

This is both a fiscal and national security bargain.

Let me make this point clear. This is not a blanket handout to the maritime industry. To participate in the Maritime Security Program, each vessel must be approved by the Secretary of Defense. And participation is limited to vessels actively engaged in the international maritime trades.

Make no mistake about it—without it the American maritime flag will disappear from the high seas. The U.S.-flag merchant marine that has helped to sustain this country in peace and has served with bravery and honor in wartime will be gone.

I don't believe that any American wants that day to come.

Provisions of this bill have been considered and discussed in nearly 50 public hearings in either the House or the Senate. These hearings were full and open. All interested parties, both for and against this approach, have had notice and opportunity to make comments, criticisms and corrections. In 9 years, this inclusive process has insured the incorporation of all valid provisions into a balanced and responsible public policy which advances and revitalizes an integral segment of America's economy and culture. This inclusive process is reflected in the deep respect and support for this legislation across a wide political and social spectrum.

The House passed the bill in December on a voice vote, with overwhelming and loud bipartisan support. I have been told that the President intends to sign this bill promptly after its final passage here in the Senate.

Mr. President, the Senate has a responsibility to provide for the Nation's defense. And this bill represents the most cost-effective way to make sure that our military has the sealift capabilities it needs to protect our interests around the world. It marks a dramatic departure from our previous maritime programs. The entitlements are gone, and they have been replaced by a vigorous fiscal discipline and dynamic marketplace.

Mr. President, I urge all of my colleagues to stand with me in support of this legislation when it comes to the floor.

Mr. President, this is a bill we must pass before this Congress goes into recess for this fall's elections. It is my hope that the Senate will consider the Maritime Security Act on the floor in September.

## THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, four years ago when I commenced these daily reports to the Senate I wanted to make a matter of daily record the exact Federal debt as of the close of business the previous day.

In my first report on February 27, 1992, the Federal debt the previous day stood at $3,825,891,293,066.80, at the close of business. The Federal debt has, of course, shot further into the stratosphere since then. (At the close of business yesterday, Monday, July 29, an additional $1,356,563,675,813.41 had been

added to the Federal debt since February 26, 1992.)

That means, Mr. President, that the exact Federal debt stood yesterday at $5,182,454,968,880.21, which on a per capita basis means that every man, woman, and child in America owes $19,527.65 as his or her share of the Federal debt.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

At 11:53 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, without amendment:

S. 531. An act to authorize a circuit judge who has taken part in an in banc hearing of a case to continue to participate in that case after taking senior status, and for other purposes.

S. 1757. An act to amend the Developmental Disabilities Assistance and Bill of Rights Act to extend the act, and for other purposes.

S.J. Res. 20. A joint resolution granting the consent of Congress to the compact to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West Virginia, entered into between the States of West Virginia and Maryland.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3603) making appropriations for agriculture, rural development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1997, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. SKEEN, Mr. MYERS of Indiana, Mr. WALSH, Mr. DICKEY, Mr. KINGSTON, Mr. RIGGS, Mr. NETHERCUTT, Mr. LIVINGSTON, Mr. DURBIN, Ms. KAPTUR, Mr. THORNTON, Mr. FAZIO, and Mr. OBEY as the managers of the conference on the part of the House.

At 5:39 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3907. An act to facilitate the 2002 Winter Olympic Games in the State of Utah at the Snowbasin Ski Area, to provide for the acquisition of lands within the Sterling Forest Reserve, and for other purposes.

At 6:32 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3540) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1997, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. CALLAHAN, Mr. PORTER, Mr. LIVINGSTON, Mr. LIGHTFOOT, Mr. WOLF, Mr. PACKARD, Mr. KNOLLENBERG, Mr. FORBES, Mr. BUNN, Mr. WILSON, Mr. YATES, Ms. PELOSI, Mr. TORRES, Mrs. LOWEY, and Mr. OBEY as the managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3610) making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. YOUNG of Florida, Mr. MCDADE, Mr. LIVINGSTON, Mr. LEWIS of California, Mr. SKEEN, Mr. HOBSON, Mr. BONILLA, Mr. NETHERCUTT, Mr. ISTOOK, Mr. MURTHA, Mr. DICKS, Mr. WILSON, Mr. HEFNER, Mr. SABO, and Mr. OBEY as the managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3754) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1997, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. PACKARD, Mr. YOUNG of Florida, Mr. TAYLOR of North Carolina, Mr. MILLER of Florida, Mr. WICKER, Mr. LIVINGSTON, Mr. THORNTON, Mr. SERRANO, Mr. FAZIO, and Mr. OBEY as the managers of the conference on the part of the House.

## MEASURES REFERRED

The following concurrent resolution, previously received from the House of Representatives for the concurrence of the Senate, was read and referred as indicated:

H. Con. Res. 198. Concurrent resolution, the use of the Capitol Grounds for the first annual Congressional Family Picnic; to the Committee on Rules and Administration.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1130. A bill to provide for the establishment of uniform accounting systems, standards, and reporting systems in the Federal Government, and for other purposes (Rept. No. 104-339).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1237. A bill to amend certain provisions of law relating to child pornography, and for other purposes.

S. 1556. A bill to prohibit economic espionage, to provide for the protection of United States proprietary economic information in interstate and foreign commerce, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, with amendments:

S. 1887. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes.

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1931. A bill to provide that the United States Post Office building that is to be located at 9 East Broad Street, Cookeville, Tennessee, shall be known and designated as the "L. Clure Morton Post Office and Courthouse."

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

Treaty Doc. 104-2 Treaty With the United Kingdom of Mutual Legal Assistance In Criminal Matters (Exec. Rpt. 104-23):

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of The Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 6, 1994, together with a Related Exchange of Notes signed the same date. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

"Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

"Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in a felony, including the facilitation of the production or distribution of illegal drugs."

Treaty Doc. 104–01 Treaty with the Republic of Korea on Mutual Legal Assistance in Criminal Matters (Exec. Rpt. 104–22):

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of The Treaty Between the United States of American and the Republic of Korea on Mutual Legal Assistance in Criminal Matters, signed at Washington on November 23, 1993, together with a Related Exchange of Notes signed on the same date. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

"Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

"Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in a felony, including the facilitation of the production or distribution of illegal drugs."

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Treaty Doc. 104–21 Treaty with Austria on Mutual Legal Assistance in Criminal Matters (Exec. Rpt. 104–24):

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of The Treaty Between the Government of the United States of America and the Government of the Republic of Austria on Mutual Legal Assistance in Criminal Matters, signed at Vienna on February 23, 1995. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

"Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

"Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in a felony, including the facilitation of the production or distribution of illegal drugs."

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Treaty Doc. 104–20 Treaty with Hungary on Mutual Legal Assistance in Criminal Matters (Exec Rpt. 104–25)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of The Treaty Between the Government of the United States of America and the Government of the Republic of Hungary on Mutual Legal Assistance in Criminal matters, signed at Budapest on December 1, 1994. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

"Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

"Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in a felony, including the facilitation of the production or distribution of illegal drugs."

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Treaty Doc. 104–18 Treaty with the Philippines on Mutual Legal Assistance in Criminal Matters (Exec Rpt. 104–26)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of The Treaty Between the Government of the United States of America and the Government of the Republic of the Philippines on Mutual Legal Assistance in Criminal matters, signed at Manila on November 13, 1994. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

"Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

"Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in a felony, including the facilitation of the production or distribution of illegal drugs."

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Treaty Doc. 104–5 Treaty with Hungary (Exec Rpt. 104–27)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of The Treaty Between the Government of the United States of America and the Government of the Republic of Hungary on Extradition, signed at Budapest on December 1, 1994. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

"Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States."

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Treaty Doc. 104–7 and 104–8 Extradition Treaty with Belgium and Supplementary Extradition Treaty with Belgium (Exec Rpt. 104–28)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of The Supplementary Treaty on Extradition Between the United States of America and the Kingdom of Belgium to Promote the Repression of Terrorism, signed at Brussels on April 27, 1987. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

"Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States."

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TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of The Extradition Treaty Between the United States of America and the Kingdom of Belgium signed at Brussels on April 27, 1987. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

"Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States."

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Treaty Doc. 104–16 Extradition Treaty with the Philippines (Exec. Rpt. 104–29)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of The Extradition Treaty Between the Government of the United States of America and the Government of the Republic of the Philippines, signed at Manila on November 13, 1994. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

"Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States."

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Treaty Doc. 104–26 Extradition Treaty with Malaysia (Exec. Rpt. 104–30)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of The Extradition Treaty Between the Government of the United States of America and the Government of Malaysia, and a Related Exchange of Notes signed at Kuala Lampur on August 3, 1995. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

"Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States."

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Treaty Doc. 104–22 Extradition Treaty with Bolivia (Exec. Rpt. 104–31)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of The Extradition Treaty Between the Government of the United States of America and the Government of the Republic of Bolivia, signed at La Paz on June 27, 1995. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

"Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States."

Treaty Doc. 104-9 Extradition Treaty with Switzerland (Exec. Rpt. 104-32)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of The Extradition Treaty Between the Government of the United States of America and the Government of the Swiss Conferderation, signed at Washington on November 14, 1990. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

"Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States."

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COATS (for himself, Mr. STEVENS, Mr. NICKLES, Mr. ABRAHAM, Mr. DEWINE, Mr. COVERDELL, and Mr. FAIRCLOTH):

S. 2000. A bill to make certain laws applicable to the Executive Office of the President, and for other purposes; to the Committee on Governmental Affairs.

By Mr. PELL:

S. 2001. A bill to amend the Job Training Partnership Act to improve the definition relating to eligible dislocated workers, and for other purposes; to the Committee on Labor and Human Resources.

By Ms. SNOWE:

S. 2002. A bill to amend title 18, United States Code, to prohibit taking a child hostage in order to evade arrest; to the Committee on the Judiciary.

By Mr. EXON:

S. 2003. A bill to amend the Armored Car Industry Reciprocity Act of 1993 to clarify certain requirements and to improve the flow of interstate commerce; to the Committee on Commerce, Science, and Transportation.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COATS (for himself, Mr. STEVENS, Mr. NICKLES, Mr. ABRAHAM, Mr. DEWINE, Mr. COVERDELL and Mr. FAIRCLOTH):

S. 2000. A bill to make certain laws applicable to the Executive Office of the President, and for other purposes; to the Committee on Governmental Affairs.

THE PRESIDENTIAL AND EXECUTIVE OFFICE ACCOUNTABILITY ACT

Mr. COATS. All Members of this body remember early in this Congress we introduced and passed into law the Congressional Accountability Act which applied the various civil rights and labor laws that are currently applicable to employers and employees throughout America's workplaces, and applied this same restrictions to Members of Congress.

For too long we had exempted ourselves from the laws and regulations that we had imposed on virtually every other business operation in America. There were only a couple of workplaces that were exempted: The Labor Standards Act, the Civil Rights Act of 1964, the Americans With Disability Act, and the other items that we discussed. Those institutions were the U.S. Congress and the executive branch, in particular, the White House. We remedied that, partially, for the Congress with the adoption of the Congressional Accountability Act.

Now, these 11 specific items apply to Members of Congress as well as to the private sector. I think what we are learning is that some of these laws are good, some of these laws are applicable to what we do, but some of them are overly burdensome and overly restrictive and therefore need to be examined. Because they apply to us as they apply to everyone else, we feel that burden, and perhaps we can be reasonable when we examine these to determine whether or not reforms are needed.

This act would apply these same provisions that now apply to Congress and virtually every other workplace in the country, to the White House. This legislation, which I send to the desk for referral, was originally cosponsored by Senator STEVENS, as well as other Members including Senators NICKLES, ABRAHAM, DEWINE, COVERDELL, and FAIRCLOTH.

Mr. President, today I send to the desk a bill designed to eliminate a dubious double standard that remains in the application of our civil rights and labor protection laws.

Last year, this Congress passed the Congressional Accountability Act, requiring Congress to live under the laws it passes—and oftentimes imposes—on the rest of the Nation. Now that the Congressional Accountability Act is the law of the land, only one workplace in America remains exempt from our Nation's laws and regulations. In just one place of employment, workers do not enjoy the rights and protections afforded to all other Americans. That *one place is the White House, and it's* time for the White House to join the rest of the United States in living under the civil rights and labor laws governing the rest of the Nation.

For decades, Congress callously exempted itself from rules and regulations it was passing for the rest of the country. Many of us had supported the Congressional Accountability Act for years, but were thwarted in our efforts. Finally, when—for the first time in 40 years—Republicans gained control of Congress, we wasted little time and passed the Congressional Accountability Act into law.

I remain in strong support of the principle that Congress should not be exempt from the laws that apply to all other Americans, and because of the Congressional Accountability Act, Congress now is living under 11 different labor and civil rights laws from which it had previously exempted itself. I continue to believe that this is a simple issue of fundamentlal fairness. Congress should live under the laws it passes for everyone else. In doing so, lawmakers will learn first hand which laws work, and perhaps more often than not, which laws are overly intrusive and burdensome.

These lessons also would be appropriate for the White House, since under President Clinton the Federal Register of Government regulations now totals about 65,000 pages, the largest number in more than 15 years. Despite President Clinton's stated concerns for the working men and women of this country, the White House continues to exempt itself from the laws and regulations covering the rest of the country, including Congress and all private businesses.

For example, because of this privileged loophole, the White House does not have to abide by the minimum wage or the Family Medical Leave Act or the overtime requirements of the Fair Labor Standards Act or several of the other civil rights and labor laws that apply to all other Americans. I think America's labor leaders will agree with me when I say that employees of the White House should be protected by the same laws that the President approves for the rest of the country. Employees should have the same rights and protections regardless of where they work—whether the individual labors in the private sector, the Congress, and yes, even in the White House.

There are some in the White House who argue that this legislation is unnecessary because the White House voluntarily complies with the spirit of many of these laws. Mr. President, I argue that voluntary compliance is not good enough. How many private sector companies are allowed to voluntarily comply with the laws of the land? The answer is zero, and the White House should not be an exception.

The *Congressional Accountability* Act, and the proposed White House Accountability Act, give employees of

these two branches of Government the same rights as any other citizen to go into a court of law and have their case heard by a jury of their peers. White House employees should not have to depend on the benevolence or arbitrary good will of a supervisor to ensure that they are not taken advantage of, sexually harassed, or otherwise dealt with in an inappropriate and possibly illegal manner. They deserve the right to be free from discrimination, the right to work in a safe and healthy work environment, the right not to be fired simply because of race, sex, disability, or age. White House workers deserve the same rights and protections that every other American enjoys in the private sector, and now in the U.S. Congress.

The White House Accountability Act also would be good policy for senior management and administrators. White House policy makers and their staffs would gain a first-hand understanding of the laws they propose and enact. Perhaps the White House will find, as many in Congress have been forced to learn, that some of the laws we pass are good, some do not go far enough and need to be strengthened, or—and this is too often the case—that many of the regulations imposed on the Nation by the Federal bureaucracy in Washington are onerous and in serious need of reform.

Writing in the Federalist Papers, James Madison instructed us that no branch of Government is above the law. Madison wrote, "Congress can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of society."

Because of the Congressional Accountability Act, Federal laws and regulations now apply from our Nation's assembly lines to our Nation's general assembly. When President Clinton was inaugurated, he called the White House, "the people's house." It's time he backed up that statement by letting his workers in the White House enjoy the same civil rights and labor protections enjoyed by the rest of the people in whose house they serve.

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By Mr. PELL:

S. 2001. A bill to amend the Job Training Partnership Act to improve the definition relating to eligible dislocated workers, and for other purposes; to the Committee on Labor and Human Resources.

THE FISHERMEN AS DISLOCATED WORKERS ACT

Mr. PELL. Mr. President, I am introducing legislation today that amends the Job Training Partnership Act [JTPA] to improve the definition of eligible dislocated workers. The legislation defines "dislocated worker" as any employee who "has become unemployed as a result of a Federal action that limits the use of, or restricts access to, a marine natural resource."

This language is directed at fishermen. In Rhode Island, as well as many other coastal States, customarily the crew members of fishing boats are not paid but are given a share of the day's catch. Unfortunately, this means they are neither employees of the boat nor self-employed.

Fishing has always been a difficult occupation. But now, with a declining supply, Government efforts to restore the population of various species of fish by limiting or closing access to fishing grounds, and the need to close large portions of our coastal waters after oil spills and other environmental disasters, fishermen are leaving port less and, when they do, catching less.

Some months ago, I received a letter from a Rhode Island fisherman who realized that fishing would no longer be able to support the demands of his growing family. He had, therefore, selected a new occupation—he wants to be a cabinetmaker—and on his own, he had located and been accepted into a training program. His only problem? Financial assistance.

Because he is technically not unemployed, the present system is of no help to him. My legislation would correct that unfortunate inequity.

I originally offered and had accepted a similar version of this legislation in the Labor and Human Resources Committee as an amendment to S. 143, the Workforce Development Act. Regrettably, the House-Senate work force development conference committee has only just finished its work under a cloud of partisanship and disagreement and I very much doubt any further action will take place during this Congress.

I do not believe the commercial fishermen in Galilee, RI, should suffer because of the failure of a conference committee in Washington, DC. I have, therefore, drafted this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2001

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. DEFINITION.

Section 301(a)(1) of the Job Training Partnership Act (29 U.S.C. 1651(a)(1)) is amended—

(1) in subparagraph (C), by striking "; or" and inserting a semicolon;

(2) in subparagraph (D), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(E) have become unemployed as a result of a Federal action that limits the use of, or restricts access to, a marine natural resource.".

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By Ms. SNOWE:

S. 2002. A bill to amend title 18, United States Code, to prohibit taking a child hostage in order to evade arrest; to the Committee on the Judiciary.

CRIME LEGISLATION

• Ms. SNOWE. Mr. President, over the past few years, America has witnessed an unfortunate trend involving standoffs between the U.S. Government and parties who reject its authority to enforce the laws of this land—specifically, the incidents in Waco, TX; Ruby Ridge, ID; and Garfield County, MT. Thankfully, the most recent episode involving the Freemen did not escalate to violence or bloodshed. Regrettably, this does not hold true for Waco or Ruby Ridge, where there was a tragic loss of life to civilians and Government agents alike.

Each of these situations jeopardized children's lives—innocent children who had no choice in the role they played in these standoffs. In Waco, 25 young children under the age of 15 died in the blaze that spread throughout the compound. These deaths occurred despite the repeated efforts by Federal agents to encourage Branch Davidians leaders to allow children to leave the compound.

At Ruby Ridge, a 14-year-old died after being caught in gunfire. And during the Freemen standoff, Americans across the Nation held their breath—praying that violence would not erupt. Once again, the lives of children were placed in jeopardy. But thankfully, this time, the children—and adults—emerged unharmed.

As we have seen, tragedy can occur in these very tense situations. Above all else, we need to ensure that children are kept out of these situations in the future. People who arm themselves after failing to comply with warrants or because they seek to avoid arrest must realize that, whether or not it is intended, children are implicated in these standoffs. We cannot allow this to continue any longer. We cannot allow another child's life to be endangered in this manner.

Today, I am introducing a bill which seeks to protect children from harm in these standoff situations. My bill would make it a crime to detain a child when two conditions are met: if a person is trying to evade arrest or avoid complying with a warrant, and that person uses force, or threatens to use force, against a Federal agent. Any person convicted of violating this act would be imprisoned for 10–25 years. If a child is injured, the penalty would be increased to 20–35 years. If a child is killed, the penalty would be life imprisonment.

No law can ever assure that children will be kept free from harm. But this legislation will help assure that children do not become inadvertent, innocent pawns when violent situations arise. It will provide a deterrent to involving a child in any standoff—and severe penalties for those who ignore the law.

Tense standoffs between Federal law enforcement officers and hostile fugitives are no place for children. This bill

will help encourage the removal of innocent children from such dangerous situations. As a nation, we should not tolerate the use of children as pawns or human shields when people choose to evade the laws of this land. I hope my colleagues support this important piece of legislation.●

By Mr. EXON:

S. 2003. A bill to amend the Armored Car Industry Reciprocity Act of 1993 to clarify certain requirements and to improve the flow of interstate commerce; to the Committee on Commerce, Science, and Transportation.

THE ARMORED CAR INDUSTRY RECIPROCITY IMPROVEMENT ACT

Mr. EXON. Mr. President, I introduce legislation known as the Armored Car Industry Reciprocity Improvement Act. This legislation is a companion measure to H.R. 3431 which has unanimously passed in the House of Representatives. It is my hope that this bill which makes a slight modification to its companion can be taken up and swiftly passed this year to safely expand the benefits of the Armored Car Reciprocity Act of 1993 which I introduced in the U.S. Senate. The 1993 law which had support from law enforcement, public safety and armored car industry advocates replaced a patch work of State laws with a common sense, pro-safety, pro-interstate commerce approach to weapons registration, background checks and training for armored car crew members.

The amendments to the 1993 law build on what was learned since 1993 and will make the reciprocal benefits of the law available to more States. The net result will be better screened, better qualified and better trained armored car crews.

The armored car is one of the most overlooked instrumentalities of interstate commerce. Without the ability to safely and securely move currency, securities, food stamps, gold and other valuables, interstate commerce would be impossible.

I am pleased to introduce this legislation which I encourage the U.S. Senate to overwhelmingly endorse. It is a tribute to the success of the 1993 law.

## ADDITIONAL COSPONSORS

S. 968

At the request of Mr. MCCONNELL, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 1035

At the request of Mr. DASCHLE, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 1035, a bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes.

S. 1189

At the request of Mr. DEWINE, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1189, a bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products.

S. 1832

At the request of Ms. MIKULSKI, the names of the Senator from Louisiana [Mr. BREAUX], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 1832, a bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies during the first 15 days of such month, and for other purposes.

SENATE JOINT RESOLUTION 52

At the request of Mr. KYL, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of Senate Joint Resolution 52, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of victims of crimes.

SENATE JOINT RESOLUTION 57

At the request of Mr. ASHCROFT, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Joint Resolution 57, a joint resolution requiring the Congressional Budget Office and the Joint Committee on Taxation to use dynamic economic modeling in addition to static economic modeling in the preparation of budgetary estimates of proposed changes in Federal revenue law.

AMENDMENT NO. 5119

At the request of Mr. MACK the names of the Senator from Kentucky [Mr. FORD], and the Senator from Tennessee [Mr. FRIST] were added as cosponsors of amendment No. 5119 proposed to H.R. 3754, a bill making appropriations for the legislative branch for the fiscal year ending September 30, 1997, and for other purposes.

## AMENDMENTS SUBMITTED

## THE ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1997

### DOMENICI AMENDMENT NO. 5121

Mr. DOMENICI proposed an amendment to amendment No. 5094 proposed by Mr. MCCAIN to the bill (S. 1959) making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes; as follows:

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

### DOMENICI AMENDMENT NO. 5122

Mr. DOMENICI (for himself) proposed an amendment to the bill, S. 1959, supra; as follows:

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

## THE DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1997

### HATFIELD AMENDMENTS NOS. 5123–5125

Mr. HATFIELD proposed three amendments to the bill (H.R. 3675) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes; as follows:

AMENDMENT NO. 5123

Strike section 346 and insert the following:

**SEC. 346. DEPARTMENT OF TRANSPORTATION VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**

(a) DEFINITIONS.—For the purposes of this section—

(1) the term "agency" means the following agencies of the Department of Transportation:

(A) the United States Coast Guard;

(B) the Research and Special Programs Administration;

(C) the St. Lawrence Seaway Development Corporation;

(D) the Office of the Secretary;

(E) the Federal Railroad Administration; and

(F) any other agency of the Department with respect to employees of such agency in positions targeted for reduction under the National Performance Review;

(2) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the agency serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in subparagraph (A);

(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(F) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(G) any employee who, during the twenty four month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL.—The head of an agency, prior to obligating any resources for voluntary separation incentive payments, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by an agency head not to exceed $25,000 in fiscal year 1997, $20,000 in fiscal year 1998, $15,000 in fiscal year 1999, or $10,000 in fiscal year 2000;

(D) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(E) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(3) LIMITATION.—No amount shall be payable under this section based on any separation occurring before the date of the enactment of this Act, or after September 30, 2000.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—For the purpose of paragraph (1), the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in an agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor each agency and take any action necessary to ensure that the requirements of this subsection are met.

(g) EFFECTIVE DATE.—This section shall take effect October 1, 1996.

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AMENDMENT NO. 5124

On page 63 of the bill, line 24, strike "Arkansas" and insert "Alaska".

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AMENDMENT NO. 5125

On page 60 of the bill, line 21, strike "5307" and insert "5311".

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## LAUTENBERG AMENDMENT NO. 5126

Mr. LAUTENBERG proposed an amendment to the bill, H.R. 3675, supra; as follows:

On page 5, line 17, strike "132,500,000" and insert "132,499,000."

On page 14, line 22, strike "187,000,000" and insert "188,490,000."

On page 38, line 5, strike "200,000,000" and insert "198,510,000."

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## KOHL AMENDMENT NO. 5127

Mr. HATFIELD (for Mr. KOHL) proposed an amendment to the bill, H.R. 3675, supra; as follows:

SEC.—. It is the sense of the Senate that Congress should actively consider legislation to establish the Saint Lawrence Seaway Development Corporation as a performance-based organization on a pilot basis beginning in fiscal year 1998.

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## BOND AMENDMENT NO. 5128

Mr. HATFIELD (for Mr. BOND) proposed an amendment to the bill, H.R. 3675, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . FEDERAL AVIATION ADMINISTRATION PROCUREMENT.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Administrator of the Federal Aviation Administration should promote and encourage the use of full and open competition as the preferred method of procurement for the Federal Aviation Administration.

(b) INDEPENDENT ASSESSMENT.—Not later than December 31, 1997, the Administrator of the Federal Aviation Administration shall—

(1) take such action as may be necessary to provide for an independent assessment of the acquisition management system of the Federal Aviation Administration that includes a review of any efforts of the Administrator in promoting and encouraging the use of full and open competition as the preferred method of procurement with respect to any contract that involves an amount greater than $50,000,000; and

(2) submit to the Congress a report on the findings of that independent assessment.

(c) FULL AND OPEN COMPETITION DEFINED.—For purposes of this section, the term "full and open competition" has the meaning provided that term in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).

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## KERREY AND EXON AMENDMENT NO. 5129

Mr. HATFIELD (Mr. KERREY, for himself and Mr. EXON) proposed an amendment to the bill, H.R. 3675, supra; as follows:

49 U.S.C. App. 2311 is amended by adding the following new subsection:

(d) NEBRASKA.—In addition to vehicles which the State of Nebraska may continue to allow to be operated under paragraphs (1)(A) and (1)(B) of this section, the State of Nebraska may allow longer combination vehicles that were not in actual operation on June 1, 1991 to be operated within its boundaries to transport sugar beets from the field where such sugar beets are harvested to storage, market, factory or stockpile or from stockpile to storage, market or factory. This provision shall expire on September 30, 1997.

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## LEVIN AMENDMENT NO. 5130

Mr. HATFIELD (for Mr. LEVIN) proposed an amendment to the bill, H.R. 3675, supra; as follows:

At the end of title IV, add the following:

SEC. 4 . HIGHWAY SAFETY IMPROVEMENT PROJECT, MICHIGAN.

Of the amount appropriated for the highway safety improvement project, Michigan, under the matter under the heading "SURFACE TRANSPORTATION PROJECTS" under the heading "FEDERAL HIGHWAY ADMINISTRATION" in title I of the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103-331; 108 Stat. 2478), for the purposes of right-of-way acquisition for Baldwin Road, and engineering, right-of-way acquisition, and construction between Walton Boulevard and Dixie Highway, $2,000,000 shall be made available for construction of Baldwin Road.

## DORGAN AMENDMENT NO. 5131

Mr. DORGAN proposed an amendment to the bill, H.R. 3675, supra; as follows:

On page 2, line 6 after "$53,376,000," insert the following: "of which such sums as necessary shall be used to investigate anticompetitive practices in air transportation, enforce Section 41712 of Title 49, and report to Congress by the end of the fiscal year on its progress to address anticompetitive practices, and".

## McCAIN AMENDMENT NO. 5132

Mr. McCAIN proposed an amendment to the bill, H.R. 3675, supra; as follows:

On page 25, strike lines 9 through 14, provided that the $200,000,000 thus saved be made available to the Secretary for high priority rail, aviation and highway safety purposes.

On page 29, line 6, strike "$592,000,000" and insert "$120,000,00, provided that the $130,000,000 thus saved be made available to the Secretary for high priority rail, aviation and highway safety purposes."

## DEWINE (AND OTHERS) AMENDMENT NO. 5133

Mr. DEWINE (for himself, Mr. LUGAR, Mr. BIDEN, and Mr. EXON) proposed an amendment to the bill, H.R. 3675, supra; as follows:

At the end of title IV, add the following:

SEC. . (a) Section 120(c) of title 23, United States Code, is amended by inserting "rail-highway crossing closure," after "carpooling and vanpooling,".

(b) Section 130 of such title is amended by adding at the end the following:

"(1) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section and subject to paragraphs (2) and (3), a State may, from sums available to the State under this section, make incentive payments to local governments in the State upon the permanent closure by such governments of public at-grade rail-highway crossings under the jurisdiction of such governments.

"(2) INCENTIVE PAYMENTS BY RAILROADS.—A State may not make an incentive payment under paragraph (1) to a local government with respect to the closure of a crossing unless the railroad owning the tracks on which the crossing is located makes an incentive payment to the government with respect to the closure.

"(3) AMOUNT OF STATE PAYMENT.—The amount of the incentive payment payable to a local government by a State under paragraph (1) with respect to a crossing may not exceed the lesser of—

"(A) the amount of the incentive payment paid to the government with respect to the crossing by the railroad concerned under paragraph (2); or

"(B) $7,500.

"(4) USE OF STATE PAYMENTS.—A local government receiving an incentive payment from a State under paragraph (1) shall use the amount of the incentive payment for transportation safety improvements.".

## DORGAN (AND OTHERS) AMENDMENT NO. 5134

Mr. DORGAN (for himself, Mr. CONRAD, Mr. EXON, Mr. HARKIN, Mr. PRESSLER, and Mr. DASCHLE) proposed an amendment to the bill, H.R. 3675, supra; as follows:

On line 12 on page 41 after the semicolon, insert the following: "*Provided further*, That none of the funds appropriated in this Act or otherwise made available may be used to increase fees for services in connection with licensing and related service fees, pursuant to 49 CFR Part 1002, STB Ex Parte No. 542, for services in connection with rail maximum rate complaints,".

## MURKOWSKI AMENDMENT NO. 5135

Mr. MURKOWSKI proposed an amendment to the bill, H.R. 3675, supra; as follows:

At the appropriate place add the following:

"SEC. . (a) APPLICABLE LAWS.—Section 24301 of Title 49, United States Code, as amended by Section 504 of this Act, is amended by adding at the end thereof the following:

"(q) POWER PURCHASES.—The sale of power to Amtrak for its own use, including operating its electric traction system, does not constitute a direct sale of electric energy to an ultimate consumer under section 212(h)(1) of the Federal Power Act."

"(b) CONFORMING AMENDMENTS.—Section 212(h)(2)(A) of the Federal Power Act is amended by inserting "Amtrak;" after "a State or any political subdivision);"."

## PRESSLER (AND OTHERS) AMENDMENT NO. 5136

Mr. HATFIELD (for Mr. PRESSLER, for himself, Mr. WYDEN, Mr. EXON, Mr. HARKIN, and Mrs. BOXER) proposed an amendment to the bill, H.R. 3675, supra; as follows:

On page 3, line 2, strike "$4,158,000" and insert "$3,000,000".

On page 5, line 17, strike "$132,499,000" and insert "$129,500,000".

On page 26, line 8, strike "1997" and insert "1997, except for up to $75,000,000 in loan guarantee commitments during such fiscal year (and $4,158,000 is hereby made available for the cost of such loan guarantee commitments.)."

## KEMPTHORNE AMENDMENT NO. 5137

Mr. HATFIELD (for Mr. KEMPTHORNE) proposed an amendment to the bill, H.R. 3675, supra; as follows:

On page 47, of H.R. 3675: line 13, strike "$5,000,000" and insert "$15,000,000".

## PRESSLER (AND OTHERS) AMENDMENT NO. 5138

Mr. HATFIELD (for Mr. PRESSLER, for himself, Mr. HARKIN, Mr. GRASSLEY, Mr. LOTT, Mr. BOND, and Mr. LUGAR) proposed an amendment to the bill, H.R. 3675, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . LIMITATION ON FUNDS USED TO ENFORCE REGULATIONS REGARDING ANIMAL FATS AND VEGETABLE OILS.

None of the funds made available in this Act may be used by the Coast Guard to issue, implement, or enforce a regulation or to establish an interpretation or guideline under the Edible Oil Regulatory Reform Act (Public Law 104-55) or the amendments made by that Act that does not recognize and provide for, with respect to fats, oils, and greases (as described in that Act or the amendments made by that Act) differences in—

(1) physical, chemical, biological, and other relevant properties; and

(2) environmental effects.

## GORTON (AND OTHERS) AMENDMENT NO. 5139

Mr. HATFIELD (for Mr. GORTON, for himself, Mr. BAUCUS, and Mr. BURNS) proposed an amendment to the bill, H.R. 3675, supra; as follows:

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

SEC. . (a) In cases where an emergency ocean condition causes erosion of a bank protecting a scenic highway or byway, FY 1996 or FY 1997 Federal Highway Administration Emergency Relief funds can be used to halt the erosion and stabilize the bank if such action is necessary to protect the highway from imminent failure and is less expensive than highway relocation.

(b) In cases where an emergency condition causes inundation of a roadway or saturation of the subgrade with further erosion due to abnormal freeze/thaw cycles and damage caused by traffic, FY 1996 or FY 1997 Federal Highway Administration Emergency Relief funds can be used to repair such roadway.

(c) Not more than $8 million in Federal Highway Administration Emergency Relief funds may be used for each of the conditions referenced in paragraphs (a) and (b).

## EXON AMENDMENT NO. 5140

Mr. EXON proposed an amendment to the bill, H.R. 3675, supra; as follows:

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

SEC. . THE RAILROAD SAFETY INSTITUTE.

Of the money available to the Federal Rail Administration up to $500,000 shall be made available to establish and operate the Institute for Railroad Safety as authorized by the Swift Rail Development Act of 1994.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON INDIAN AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Tuesday, July 30, 1996, at 9:30 a.m. in room 485 of the Russell Senate Office Building to conduct a markup on S. 1983, a bill to amend the Native American Graves Protection and Repatriation Act to provide for native Hawaiian organizations, and for other purposes.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on S. 1035, the Access to Medical Treatment Act., during the session of the Senate on Tuesday, July 30, 1996, at 9:30 a.m.

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

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Tuesday, July 30 at 9:30 a.m. to hold a hearing to discuss suicide among the elderly.

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

SUBCOMMITTEE ON CONSTITUTION, FEDERATION, AND PROPERTY RIGHTS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Constitution, Federalism, and Property Rights be authorized to meet during the session of the Senate on Tuesday, July 30, 1996, at 2 p.m., to hold an executive business meeting.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, July 30, 1996, for purposes of conducting a subcommittee hearing which is scheduled to begin at 10:30 a.m. The purpose of this oversight hearing is to receive testimony on the conditions that have made the national forests of the Southwest susceptible to catastrophic fires and disease.

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

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. DOMENICI. Mr. President, the Finance Committee requests unanimous consent for the Subcommittee on International Trade and the Caucus on International Narcotics Control to conduct a hearing on Tuesday, July 30, 1996, beginning at 9 a.m. in room SD–215.

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

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. DOMENICI. Mr. President, the Finance Committee requests unanimous consent for the Subcommittee on International Trade and the Caucus on International Narcotics Control to conduct a hearing on Tuesday, July 30, 1996, beginning at 10 a.m. in room SD–215.

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

SUBCOMMITTEE ON WESTERN HEMISPHERE AND PEACE CORPS AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 30, 1996, at 3 p.m. to hold a hearing.

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

## ADDITIONAL STATEMENTS

### TRIBUTE TO DR. WILLIAM WHEELER, NEW HAMPSHIRE'S SUPERINTENDENT OF THE YEAR

• Mr. SMITH. Mr. President, I rise today to pay tribute to Dr. William Wheeler for receiving New Hampshire's Superintendent of the Year Award. William has served his schools with pride and dedication, always putting the best interests of New Hampshire's children first. As a former teacher and school board chairman myself, I am proud to congratulate him for receiving this prestigious award.

William received his doctorate in education from the University of Wyoming and has been a teacher, high school principal, and assistant superintendent of schools. He is currently superintendent of school in School Administrative Unit No. 38, which serves the Monadnock Regional, Hinsdale, and Winchester Schools District. In addition, he also serves as president of the New Hampshire Schools Administrators Association. William's colleagues have always been impressed with his focus and commitment to the communities he serves.

William was selected as New Hampshire's Superintendent of the Year for his leadership, communication skills, professionalism, and community involvement. He is a leader and an educator tireless in his commitment to children and community. William's efforts on behalf of New Hampshire public school children have been praised by many including the New Hampshire School Boards Association, the director of the New Hampshire School Administrator's Association, New Hampshire's Education Commissioner, and the vice president of the New Hampshire Business and Industry Association.

Our Nation's children are our future and one of our greatest treasures. Our educators have been entrusted with the care and development of these young minds and are the guardians of this treasure. As superintendent, William has done an excellent job coordinating the schools in his care. His outstanding performance is reflected in the quality of the schools in his district and the respect and admiration he has earned from fellow educators. I commend William Wheeler for a career of distinction in the field of education. New Hampshire is fortunate to have such a talented and dedicated educator devoted to our children.•

### SELMA JEAN COHEN

• Ms. MIKULSKI. Mr. President, I would like to call to the attention of my colleagues the life of Selma Jean Cohen, a native Marylander who dedicated her life to caring for ill and handicapped children and adults. Mrs. Cohen passed away on July 2 at the age of 75.

Mrs. Cohen was born Selma Jean Lattin and graduated from Forest Park High School in 1930. She married Leonard Cohen in 1942, and had two sons. While raising her children, Selma Cohen was very active in her community. She was the PTA president at Louisa May Alcott Elementary School, as well as the Cub Scout den mother and president of her synagogue sisterhood.

After raising her children, Selma Cohen served as the Maryland State Health Department Director of Nursing Home Bed Registry for 25 years, finding nursing home beds for seniors and the ill across Maryland. Mrs. Cohen was instrumental in bringing nursing home quality and safety concerns to the attention of authorities. She also volunteered her time at the Levindale Hebrew Geriatric Center and Hospital.

As a volunteer manager at the Baltimore Ronald McDonald House for 10 years, Selma Cohen worked with families who had children in the hospital for serious illnesses. She also volunteered at Mount Washington Pediatric Hospital. Mrs. Cohen is remembered for the tremendous joy and fulfillment she derived from working with children and the way she cared for them as though they were her own.

Despite her long battle with cancer, Mrs. Cohen never lost her cheerful outlook, her sense of humor or her great zest for life. In fact, two days before her death, she was asking how her favorite team, the Baltimore Orioles, was doing.

I know my colleagues join me in paying tribute to Mrs. Cohen's many years of service to our community. Mrs. Cohen was a great mother, a great wife, a great advocate for seniors and children and a great Marylander.•

### TRIBUTE TO OLYMPIAN JENNY THOMPSON

• Mr. SMITH. Mr. President, I rise today to pay tribute to Jenny Thompson of Dover, NH, for three gold medal performances at the 1996 summer Olympic games in Atlanta. Jenny's outstanding performances in women's swimming relay events are a tremendous achievement. She has made the Granite State very proud of her Olympic success.

Jenny swam the anchor leg in the women's 400 and 800 meter freestyle relays, setting American and Olympic records in both races. In addition, she swan in the qualifying round of the 400-meter medley relay to launch the team to gold in the final. With her three outstanding performances, Jenny proved herself a team player, giving so much of herself to the team's quest for a gold medal. The U.S. swimming team brought home its sixth straight relay gold medal, winning all of the relays that have been contested.

Jenny is a graduate of Dover High School where she swam and ran cross country track. She subsequently attended Stanford University, graduating in 1995, and began working with her current coach in California. In the 1992 Olympic games in Barcelona, Jenny won two gold medals and one silver medal. She has held American and world records in the 100 meter freestyle and an American record in the 100-yard freestyle. She was named the U.S. swimmer of the year after winning five national titles, eight NCAA titles, and six Pan-Pacific titles and is also a 12-time U.S. national champion. In 1995, she won the 100-meter freestyle and 100-meter butterfly at the world championships despite breaking her arm. At the young age of 23, Jenny now ties skater Bonnie Blair as the American woman with the highest number of Olympic gold medals.

The Olympic games are the crowning achievement of an athlete's career—the best meet the best from around the world. Years of training culminate in just a few weeks of competition in which dreams are fulfilled, records are broken, and champions are made. Jenny is one such champion with her three gold medals and two Olympic records. Dover will welcome their hometown girl as she returns on August 10 with a celebration and, appropriately, the dedication of a swimming pool in her name.

Jenny has proven herself an athlete and a winner. She has the admiration and pride of the New Hampshire seacoast and we are indeed proud of her. It is with pride that I congratulate the women's relay teams and our shining New Hampshire star, Jenny Thompson.●

## CONGRATULATING MAC VAN HORN

● Mr. BUMPERS. Mr. President, on August 27, 1996, the Industrial Developers of Arkansas will honor Mac Van Horn as their Developer of the Year.

Mac Van Horn has been the backbone of industrial development for the past 25 years in Russellville, AR. Owner of a local construction firm involved in residential and commercial development, Mac began work as a cheerleader for development in the early 1970's. He began to attend seminars, visited Arkansas Industrial Development Commission project managers, and others and learned all the things that were important to industrial recruitment.

He was such a good student of industrial recruitment techniques that two Arkansas Governors placed him on the Arkansas Industrial Development Commission where he served faithfully for 15 years.

In the past 5 years, Mac and others on the Russellville Industrial Contact Team have recruited five new companies to the Arkansas River Valley. Fasco Industries, Inc., Alumax Foils, Inc., Bardcor Corp., CarMar Freezers, and Amarillo Gear Company have all chosen to locate in Russellville.

Mac combines his knowledge of industrial development recruitment and home cooking since he invites prospective company officials into his home when they visit to lure industry to Pope County.

Mac plans to retire soon from these endeavors. His leadership, years of experience and expertise, and his skills as a negotiator will be missed on the Russellville Industrial Contact Team.

This award is most deserved and I want to join in congratulating Mac Van Horn for his tireless service to the community he loves.●

## TRIBUTE TO ROBERT SILVA FOR RECEIVING NEW HAMPSHIRE'S OUTSTANDING SERVICE AWARD IN EDUCATION

● Mr. SMITH. Mr. President, I rise today to pay tribute to Robert Silva for receiving New Hampshire's Outstanding Service Award in Education. William has served Concord school children for almost 30 years with pride and dedication, always putting the best interests of the children first. As a former teacher and school board chairman myself, I am proud to congratulate him for receiving this prestigious award.

Robert received his Bachelors and Masters degrees from the University of New Hampshire and has worked in Concord since 1967. He has been a teacher, athletic director, assistant principal, and principal. In addition, he served as the Director of Adult Education at the New Hampshire State Prison for 2 years. Robert is currently Assistant Superintendent in Concord, a position he has held since 1984.

Robert is also very involved in his community, where his record of service to schools and the community is outstanding. He has served on the Concord Recreation Committee, the Christa McAuliffe Fund Committee, and the Community Election Forum Committee. In addition he has served on the Board of Directors of the Concord DARE Association and chaired United Way fundraising for the schools.

Robert's dedication and commitment to service won him this prestigious award. He is also a leader who has shown his devotion to community development. He is a highly respected individual who is trusted and admired by all who know and work with him. His colleagues have always been impressed with his hard work and warm hearted nature. To those who work with him, Robert is also reliable and down to earth.

Our educators have been entrusted with one of our Nation's greatest treasures, our children. They, as the guardians of this treasure, care for and ensure the development of these young minds. Throughout his career in education, Robert has done an excellent job looking out for the welfare of those in his care. His outstanding performance is reflected in the respect and admiration he has earned from his colleagues. New Hampshire is fortunate to have such a talented educator and administrator. I commend Robert Silva for his outstanding career in the field of education.●

## PUBLIC HOUSING REFORM AND EMPOWERMENT ACT OF 1996

Mr. GRASSLEY. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1260, a bill to reform and consolidate the public and assisted housing programs of the United States, and to redirect primary responsibility for these programs from the Federal Government to States and localities, and of other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 1260) entitled "An Act to reform and consolidate the public and assisted housing programs of the United States, and to redirect primary responsibility for these programs from the Federal Government to States and localities, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

*SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.*

*(a) SHORT TITLE.—This Act may be cited as the "United States Housing Act of 1996".*

*(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:*

***SEC. 2. DECLARATION OF POLICY TO RENEW AMERICAN NEIGHBORHOODS.***

*The Congress hereby declares that—*

*(1) the Federal Government has a responsibility to promote the general welfare of the Nation—*

*(A) by using Federal resources to aid families and individuals seeking affordable homes that are safe, clean, and healthy and, in particular, assisting responsible, deserving citizens who cannot provide fully for themselves because of temporary circumstances or factors beyond their control;*

*(B) by working to ensure a thriving national economy and a strong private housing market; and*

*(C) by developing effective partnerships among the Federal Government, State and local governments, and private entities that allow government to accept responsibility for fostering the development of a healthy marketplace and allow families to prosper without government involvement in their day-to-day activities;*

*(2) the Federal Government cannot through its direct action alone provide for the housing of every American citizen, or even a majority of its citizens, but it is the responsibility of the Government to promote and protect the independent and collective actions of private citizens to develop housing and strengthen their own neighborhoods;*

*(3) the Federal Government should act where there is a serious need that private citizens or groups cannot or are not addressing responsibly;*

*(4) housing is a fundamental and necessary component of bringing true opportunity to people and communities in need, but providing physical structures to house low-income families will not by itself pull generations up from poverty;*

*(5) it is a goal of our Nation that all citizens have decent and affordable housing; and*

*(6) our Nation should promote the goal of providing decent and affordable housing for all citizens through the efforts and encouragement of Federal, State, and local governments, and by promoting and protecting the independent and collective actions of private citizens, organizations, and the private sector to develop housing and strengthen their own neighborhoods.*

## *TITLE I—GENERAL PROVISIONS*

***SEC. 101. STATEMENT OF PURPOSE.***

*The purpose of this Act is to promote safe, clean, and healthy housing that is affordable to low-income families, and thereby contribute to the supply of affordable housing, by—*

*(1) deregulating and decontrolling public housing agencies, which in this Act are referred to as "local housing and management authorities", and thereby enable them to perform as property and asset managers;*

*(2) providing for more flexible use of Federal assistance to local housing and management authorities, allowing the authorities to leverage and combine assistance amounts with amounts obtained from other sources;*

*(3) facilitating mixed income communities;*

*(4) increasing accountability and rewarding effective management of local housing and management authorities;*

*(5) creating incentives and economic opportunities for residents of dwelling units assisted by local housing and management authorities to work, become self-sufficient, and transition out of public housing and federally assisted dwelling units;*

*(6) recreating the existing rental assistance voucher program so that the use of vouchers and relationships between landlords and tenants under the program operate in a manner that more closely resembles the private housing market; and*

*(7) remedying troubled local housing and management authorities and replacing or revitalizing severely distressed public housing developments.*

***SEC. 102. DEFINITIONS.***

*For purposes of this Act, the following definitions shall apply:*

*(1) DISABLED FAMILY.—The term "disabled family" means a family whose head (or his or her spouse), or whose sole member, is a person with disabilities. Such term includes 2 or more persons with disabilities living together, and 1 or more such persons living with 1 or more persons determined under the regulations of the Secretary to be essential to their care or well-being.*

*(2) DRUG-RELATED CRIMINAL ACTIVITY.—The term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as such term is defined in section 102 of the Controlled Substances Act).*

*(3) ELDERLY FAMILIES AND NEAR ELDERLY FAMILIES.—The terms "elderly family" and "near-elderly family" mean a family whose head (or his or her spouse), or whose sole member, is an elderly person or a near-elderly person, respectively. Such terms include 2 or more elderly persons or near-elderly persons living together, and 1 or more such persons living with 1 or more persons determined under the regulations of the Secretary to be essential to their care or well-being.*

*(4) ELDERLY PERSON.—The term "elderly person" means a person who is at least 62 years of age.*

*(5) FAMILY.—The term "family" includes a family with or without children, an elderly family, a near-elderly family, a disabled family, and a single person.*

*(6) INCOME.—The term "income" means, with respect to a family, income from all sources of each member of the household, as determined in accordance with criteria prescribed by the applicable local housing and management authority and the Secretary, except that the following amounts shall be excluded:*

*(A) Any amounts not actually received by the family.*

*(B) Any amounts that would be eligible for exclusion under section 1613(a)(7) of the Social Security Act.*

*(7) LOCAL HOUSING AND MANAGEMENT AUTHORITY.—The term "local housing and management authority" is defined in section 103.*

*(8) LOCAL HOUSING MANAGEMENT PLAN.—The term "local housing management plan" means, with respect to any fiscal year, the plan under section 107 of a local housing and management authority for such fiscal year.*

*(9) LOW-INCOME FAMILY.—The term "low-income family" means a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may, for purposes of this paragraph, establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the authority's findings that such variations are necessary because of unusually high or low family incomes.*

*(10) LOW-INCOME HOUSING.—The term "low-income housing" means dwellings that comply with the requirements—*

*(A) under subtitle B of title II for assistance under such title for the dwellings; or*

*(B) under title III for rental assistance payments under such title for the dwellings.*

*(11) NEAR-ELDERLY PERSON.—The term "near-elderly person" means a person who is at least 55 years of age.*

*(12) PERSON WITH DISABILITIES.—The term "person with disabilities" means a person who—*

*(A) has a disability as defined in section 223 of the Social Security Act; or*

*(B) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act.*

*Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for public housing under title II of this Act, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.*

*(13) PUBLIC HOUSING.—The term "public housing" means housing, and all necessary appurtenances thereto, that—*

*(A) is low-income housing or low-income dwelling units in mixed income housing (as provided in section 221(c)(2)); and*

*(B)(i) is subject to an annual block grant contract under title II; or*

*(ii) was subject to an annual block grant contract under title II (or an annual contributions contract under the United States Housing Act of 1937) which is not in effect, but for which occupancy is limited in accordance with the requirements under section 222(a).*

*(14) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.*

*(15) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States and Indian tribes.*

*(16) VERY LOW-INCOME FAMILY.—The term "very low-income family" means a low-income family whose income does not exceed 50 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may, for purposes of this paragraph, establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the authority's findings that such variations are necessary because of unusually high or low family incomes.*

***SEC. 103. ORGANIZATION OF LOCAL HOUSING AND MANAGEMENT AUTHORITIES.***

*(a) REQUIREMENTS.—For purposes of this Act, the terms "local housing and management authority" and "authority" mean any entity that—*

*(1) is—*

*(A) a public housing agency that was authorized under the United States Housing Act of*

1937 to engage in or assist in the development or operation of low-income housing;

(B) authorized under this Act to engage in or assist in the development or operation of low-income housing by any State, county, municipality, or other governmental body or public entity;

(C) an entity authorized by State law to administer choice-based housing assistance under title III; or

(D) an entity selected by the Secretary, pursuant to subtitle B of title IV, to manage housing; and

(2) complies with the requirements under subsection (b).

The term does not include any entity that is Indian housing authority for purposes of the United States Housing Act of 1937 (as in effect before the enactment of this Act) or a tribally designated housing entity, as such term is defined in section 704.

(b) GOVERNANCE.—

(1) BOARD OF DIRECTORS.—Each local housing and management authority shall have a board of directors or other form of governance as prescribed in State or local law. No person may be barred from serving on such board or body because of such person's residency in a public housing development or status as an assisted family under title III.

(2) RESIDENT MEMBERSHIP.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in localities in which a local housing and management authority is governed by a board of directors or other similar body, the board or body shall include not less than 1 member who is an elected public housing resident member (as such term is defined in paragraph (5)). If the board includes 2 or more resident members, at least 1 such member shall be a member of an assisted family under title III.

(B) EXCEPTIONS.—The requirement in subparagraph (A) with respect to elected public housing resident members and resident members shall not apply to—

(i) any State or local governing body that serves as a local housing and management authority for purposes of this Act and whose responsibilities include substantial activities other than acting as the local housing and management authority, except that such requirement shall apply to any advisory committee or organization that is established by such governing body and whose responsibilities relate only to the governing body's functions as a local housing and management authority for purposes of this Act;

(ii) any local housing and management authority that owns or operates less than 250 public housing dwelling units (including any authority that does not own or operate public housing);

(iii) any local housing and management authority in a State in which State law specifically precludes public housing residents or assisted families from serving on the board of directors or other similar body of an authority; or

(iv) any local housing and management authority in a State that requires the members of the board of directors or other similar body of a local housing and management authority to be salaried and to serve on a full-time basis.

(3) FULL PARTICIPATION.—No local housing and management authority may limit or restrict the capacity or offices in which a member of such board or body may serve on such board or body solely because of the member's status as a resident member.

(4) CONFLICTS OF INTEREST.—The Secretary shall establish guidelines to prevent conflicts of interest on the part of members of the board or directors or governing body of a local housing and management authority.

(5) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) ELECTED PUBLIC HOUSING RESIDENT MEMBER.—The term "elected public housing resident member" means, with respect to the local housing and management authority involved, an individual who is a resident member of the board of directors (or other similar governing body of the authority) by reason of election to such position pursuant to an election—

(i) in which eligibility for candidacy in such election is limited to individuals who—

(I) maintain their principal residence in a dwelling unit of public housing administered or assisted by the authority; and

(II) have not been convicted of a felony and do not reside in a household that includes an individual convicted of a felony;

(ii) in which only residents of dwelling units of public housing administered by the authority may vote; and

(iii) that is conducted in accordance with standards and procedures for such election, which shall be established by the Secretary.

(B) RESIDENT MEMBER.—The term "resident member" means a member of the board of directors or other similar governing body of a local housing and management authority who is a resident of a public housing dwelling unit owned, administered, or assisted by the authority or is a member of an assisted family (as such term is defined in section 371) assisted by the authority.

(c) ESTABLISHMENT OF POLICIES.—Any rules, regulations, policies, standards, and procedures necessary to implement policies required under section 107 to be included in the local housing management plan for a local housing and management authority shall be approved by the board of directors or similar governing body of the authority and shall be publicly available for review upon request.

**SEC. 104. DETERMINATION OF ADJUSTED INCOME AND MEDIAN INCOME.**

(a) ADJUSTED INCOME.—For purposes of this Act, the term "adjusted income" means, with respect to a family, the difference between the income of the members of the family residing in a dwelling unit or the persons on a lease and the amount of any income exclusions for the family under subsections (b) and (c), as determined by the local housing and management authority.

(b) MANDATORY EXCLUSIONS FROM INCOME.—In determining adjusted income, a local housing and management authority shall exclude from the annual income of a family the following amounts:

(1) ELDERLY AND DISABLED FAMILIES.—$400 for any elderly or disabled family.

(2) MEDICAL EXPENSES.—The amount by which 3 percent of the annual family income is exceeded by the sum of—

(A) unreimbursed medical expenses of any elderly family;

(B) unreimbursed medical expenses of any nonelderly family, except that this subparagraph shall apply only to the extent approved in appropriation Acts; and

(C) unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed.

(3) CHILD CARE EXPENSES.—Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

(4) MINORS, STUDENTS, AND PERSONS WITH DISABILITIES.—$480 for each member of the family residing in the household (other than the head of the household or his or her spouse) who is under 18 years of age or is attending school or vocational training on a full-time basis, or who is 18 years of age or older and is a person with disabilities.

(5) CHILD SUPPORT PAYMENTS.—Any payment made by a member of the family for the support and maintenance of any child who does not reside in the household, except that the amount excluded under this paragraph may not exceed $480 for each child for whom such payment is made.

(c) PERMISSIVE EXCLUSIONS FROM INCOME.—In determining adjusted income, a local housing and management authority may, in the discretion of the authority, establish exclusions from the annual income of a family. Such exclusions may include the following amounts:

(1) EXCESSIVE TRAVEL EXPENSES.—Excessive travel expenses in an amount not to exceed $25 per family per week, for employment- or education-related travel.

(2) EARNED INCOME.—An amount of any earned income of the family, established at the discretion of the local housing and management authority, which may be based on—

(A) all earned income of the family,

(B) the amount earned by particular members of the family;

(C) the amount earned by families having certain characteristics; or

(D) the amount earned by families or members during certain periods or from certain sources.

(3) OTHERS.—Such other amounts for other purposes, as the local housing and management authority may establish.

(d) MEDIAN INCOME.—In determining median incomes (of persons, families, or households) for an area or establishing any ceilings or limits based on income under this Act, the Secretary shall determine or establish area median incomes and income ceilings and limits for Westchester and Rockland Counties, in the State of New York, as if each such county were an area not contained within the metropolitan statistical area in which it is located. In determining such area median incomes or establishing such income ceilings or limits for the portion of such metropolitan statistical area that does not include Westchester or Rockland Counties, the Secretary shall determine or establish area median incomes and income ceilings and limits as if such portion included Westchester and Rockland Counties.

**SEC. 105. OCCUPANCY LIMITATIONS BASED ON ILLEGAL DRUG ACTIVITY AND ALCOHOL ABUSE.**

(a) INELIGIBILITY BECAUSE OF EVICTION FOR DRUG-RELATED CRIMINAL ACTIVITY.—Any tenant evicted from housing assisted under title II or title III by reason of drug-related criminal activity (as such term is defined in section 102) shall not be eligible for any housing assistance under title II or title III during the 3-year period beginning on the date of such eviction, unless the evicted tenant successfully completes a rehabilitation program approved by the local housing and management authority (which shall include a waiver of this subsection if the circumstances leading to eviction no longer exist).

(b) INELIGIBILITY OF ILLEGAL DRUG USERS AND ALCOHOL ABUSERS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a local housing and management authority shall establish standards for occupancy in public housing dwelling units and housing assistance under title II—

(A) that prohibit occupancy in any public housing dwelling unit by, and housing assistance under title II for, any person—

(i) who the local housing and management authority determines is illegally using a controlled substance; or

(ii) if the local housing and management authority determines that it has reasonable cause to believe that such person's illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, may

interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents of the project; and

(B) that allow the local housing and management authority to terminate the tenancy in any public housing unit of, and the housing assistance under title II for, any person—

(i) who the local housing and management authority determines is illegally using a controlled substance; or

(ii) whose illegal use of a controlled substance, or whose abuse of alcohol, is determined by the local housing and management authority to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents of the project.

(2) CONSIDERATION OF REHABILITATION.—In determining whether, pursuant to paragraph (1), to deny occupancy or assistance to any person based on a pattern of use of a controlled substance or a pattern of abuse of alcohol, a local housing and management authority may consider whether such person—

(A) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);

(B) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or

(C) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

(c) OTHER SCREENING.—A local housing and management authority may deny occupancy as provided in section 642 of the Housing and Community Development Act of 1992.

(d) LIMITATION ON ADMISSION OF PERSONS CONVICTED OF DRUG-RELATED OFFENSES.—Notwithstanding any other provision of law, each local housing and management authority shall prohibit admission and occupancy to public housing dwelling units by, and assistance under title III to, any person who, after the date of the enactment of this Act, has been convicted of illegal possession with intent to sell any controlled substance (as such term is defined in the Controlled Substances Act). This subsection may not be construed to require the termination of tenancy or eviction of any member of a household residing in public housing, or the termination of assistance of any member of an assisted family, who is not a person described in the preceding sentence.

SEC. 106. COMMUNITY WORK AND FAMILY SELF-SUFFICIENCY REQUIREMENT.

(a) REQUIREMENT.—Except as provided in subsection (c), each local housing and management authority shall require, as a condition of occupancy of a public housing dwelling unit by a family and of providing housing assistance under title III on behalf of a family, that each adult

member of the family shall contribute not less than 8 hours of work per month within the community in which the family resides. The requirement under this subsection shall be incorporated in the terms of the tenant self-sufficiency contract under subsection (b).

(b) TENANT SELF-SUFFICIENCY CONTRACT.—

(1) REQUIREMENT.—Except as provided in subsection (c), each local housing and management authority shall require, as a condition of occupancy of a public housing dwelling unit by a family and of providing housing assistance under title III on behalf of a family, that each adult member of the family who has custody of, or is responsible for, a minor living in his or her care shall enter into a legally enforceable self-sufficiency contract under this section with the authority.

(2) CONTRACT TERMS.—The terms of a self-sufficiency contract under this subsection shall be established pursuant to consultation between the authority and the family and shall include a plan for the resident's or family's residency in housing assisted under this Act that provides—

(A) a date specific by which the resident or family will graduate from or terminate tenancy in such housing;

(B) specific interim and final performance targets and deadlines relating to self-sufficiency, which may relate to education, school participation, substance and alcohol abuse counseling, mental health support, jobs and skills training, and any other factors the authority considers appropriate; and

(C) any resources, services, and assistance relating to self-sufficiency to be made available to the resident or family.

(3) INCORPORATION INTO LEASE.—A self-sufficiency contract under this subsection shall be incorporated by reference into a lease under section 226 or 324, as applicable, and the terms of such contract shall be terms of the lease for which violation may result in—

(A) termination of tenancy, pursuant to section 226(4) or 325(a)(1), as applicable; or

(B) withholding of assistance under this Act.

The contract shall provide that the local housing and management authority or the resident who is a party to the contract may enforce the contract through an administrative grievance procedure under section 111.

(4) PARTNERSHIPS FOR SELF-SUFFICIENCY ACTIVITIES.—A local housing and management authority may enter into such agreements and form such partnerships as may be necessary, with State and local agencies, nonprofit organizations, academic institutions, and other entities who have experience or expertise in providing services, activities, training, and other assistance designed to facilitate low- and very-low income families achieving self-sufficiency.

(5) CHANGED CIRCUMSTANCES.—A self-sufficiency contract under this subsection shall provide for modification in writing and that the local housing and management authority may for good cause or changed circumstances waive conditions under the contract.

(6) MODEL CONTRACTS.—The Secretary shall, in consultation with organizations and groups representing resident councils and residents of housing assisted under this Act, develop a model self-sufficiency contract for use under this subsection. The Secretary shall provide local housing and management authorities with technical assistance and advice regarding such contracts.

(c) EXEMPTIONS.—A local housing and management authority shall provide for the exemption, from the applicability of the requirements under subsections (a) and (b)(1), of each individual who is—

(1) an elderly person and unable, as determined in accordance with guidelines established by the Secretary, to comply with the requirement;

(2) a person with disabilities and unable (as so determined) to comply with the requirement;

(3) working, attending school or vocational training, or otherwise complying with work requirements applicable under other public assistance programs, and unable (as so determined) to comply with the requirement; or

(4) otherwise physically impaired, as certified by a doctor, and is therefore unable to comply with the requirement.

SEC. 107. LOCAL HOUSING MANAGEMENT PLANS.

(a) IN GENERAL.—In accordance with this section, the Secretary shall provide for each local housing and management authority to submit to the Secretary a local housing management plan under this section for each fiscal year that describes the mission of the local housing and management authority and the goals, objectives, and policies of the authority to meet the housing needs of low-income families in the jurisdiction of the authority.

(b) PROCEDURES.—The Secretary shall establish requirements and procedures for submission and review of plans and for the contents of such plans. Such procedures shall provide for local housing and management authorities to, at the option of the authority, submit plans under this section together with, or as part of, the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (or any consolidated plan incorporating such strategy) for the relevant jurisdiction and for concomitant review of such plans.

(c) CONTENTS.—A local housing management plan under this section for a local housing and management authority shall contain the following information relating to the upcoming fiscal year for which the assistance under this Act is to be made available:

(1) FINANCIAL RESOURCES.—An operating budget for the authority that includes—

(A) a description of the financial resources available to the authority;

(B) the uses to which such resources will be committed, including eligible and required activities under section 203 to be assisted, housing assistance to be provided under title III, and administrative, management, maintenance, and capital improvement activities to be carried out; and

(C) an estimate of the market rent value of each public housing development of the authority.

(2) POPULATION SERVED.—A statement of the policies of the authority governing eligibility, admissions, and occupancy of families with respect to public housing dwelling units and housing assistance under title III, including—

(A) the requirements for eligibility for such units and assistance and the method by which eligibility will be determined and verified;

(B) the requirements for selection and admissions of eligible families for such units and assistance, including any preferences established under section 223 or 321(e) and the criteria for selection under section 222(b) and (c);

(C) the procedures for assignment of families admitted to dwelling units owned, operated, or assisted by the authority;

(D) any standards and requirements for occupancy of public housing dwelling units and units assisted under title III, including conditions for continued occupancy, termination of tenancy, eviction, and termination of housing assistance under section 321(g);

(E) the criteria under subsection (f) of section 321 for providing and denying housing assistance under title III to families moving into the jurisdiction of the authority;

(F) the fair housing policy of the authority; and

(G) the procedures for outreach efforts (including efforts that are planned and that have been executed) to homeless families and to entities providing assistance to homeless families, in the jurisdiction of the authority.

(3) RENT DETERMINATION.—A statement of the policies of the authority governing rents charged for public housing dwelling units and rental contributions of assisted families under title III, including—

(A) the methods by which such rents are determined under section 225 and such contributions are determined under section 322;

(B) an analysis of how such methods affect—

(i) the ability of the authority to provide housing assistance for families having a broad range of incomes;

(ii) the affordability of housing for families having incomes that do not exceed 30 percent of the median family income for the area; and

*(iii) the availability of other financial resources to the authority.*

*(4) QUALITY STANDARDS FOR MAINTENANCE AND MANAGEMENT.—A statement of the standards and policies of the authority governing maintenance and management of housing owned and operated by the authority, and management of the local housing and management authority, including—*

*(A) housing quality standards in effect pursuant to sections 232 and 328 and any certifications required under such sections;*

*(B) routine and preventative maintenance policies for public housing;*

*(C) emergency and disaster plans for public housing;*

*(D) rent collection and security policies for public housing;*

*(E) priorities and improvements for management of public housing; and*

*(F) priorities and improvements for management of the authority, including improvement of electronic information systems to facilitate managerial capacity and efficiency.*

*(5) GRIEVANCE PROCEDURE.—A statement of the grievance procedures of the authority under section 111.*

*(6) CAPITAL IMPROVEMENTS.—With respect to public housing developments owned or operated by the authority, a plan describing—*

*(A) the capital improvements necessary to ensure long-term physical and social viability of the developments; and*

*(B) the priorities of the authority for capital improvements based on analysis of available financial resources, consultation with residents, and health and safety considerations.*

*(7) DEMOLITION AND DISPOSITION.—With respect to public housing developments owned or operated by the authority—*

*(A) a description of any such housing to be demolished or disposed of under subtitle E of title II;*

*(B) a timetable for such demolition or disposition; and*

*(C) any information required under section 261(h) with respect to such demolition or disposition.*

*(8) DESIGNATION OF HOUSING FOR ELDERLY AND DISABLED FAMILIES.—With respect to public housing developments owned or operated by the authority, a description of any developments (or portions thereof) that the authority has designated or will designate for occupancy by elderly and disabled families in accordance with section 227 and any information required under section 227(d) for such designated developments.*

*(9) CONVERSION OF PUBLIC HOUSING.—With respect to public housing owned or operated by the authority, a description of any building or buildings that the authority is required under section 203(b) to convert to housing assistance under title III, an analysis of such buildings showing that the buildings meet the requirements under such section for such conversion, and a statement of the amount of grant amounts under title II to be used for rental assistance under title III.*

*(10) HOMEOWNERSHIP ACTIVITIES.—A description of any homeownership programs of the authority under subtitle D of title II or section 329 for the authority and the requirements and assistance available under such programs.*

*(11) COORDINATION WITH WELFARE AND OTHER APPROPRIATE AGENCIES.—A description of how the authority will coordinate with State welfare agencies and other appropriate Federal, State, or local government agencies or nongovernment agencies or entities to ensure that public housing residents and assisted families will be provided with access to resources to assist in obtaining employment and achieving self-sufficiency.*

*(12) SAFETY AND CRIME PREVENTION.—A description of the policies established by the authority that increase or maintain the safety of public housing residents, facilitate the authority undertaking crime prevention measures (such as community policing, where appropriate), allow resident input and involvement, and allow for creative methods to increase public housing resident safety by coordinating crime prevention efforts between the authority and Federal, State, and local law enforcement officials. Furthermore, to assure the safety of public housing residents, the requirements will include use of trespass laws by the authority to keep evicted tenants or criminals out of public housing property.*

*(13) POLICIES FOR LOSS OF HOUSING ASSISTANCE.—A description of policies of the authority requiring the loss of housing assistance and tenancy under titles II and III, pursuant to sections 222(e) and 321(g).*

*(d) 5-YEAR PLAN.—Each local housing management plan under this section for a local housing and management authority shall contain, with respect to the 5-year period beginning with the fiscal year for which the plan is submitted, the following information:*

*(1) STATEMENT OF MISSION.—A statement of the mission of the authority for serving the needs of low-income families in the jurisdiction of authority during such period.*

*(2) GOALS AND OBJECTIVES.—A statement of the goals and objectives of the authority that will enable the authority to serve the needs identified pursuant to paragraph (1) during such period.*

*(3) CAPITAL IMPROVEMENT OVERVIEW.—If the authority will provide capital improvements for public housing developments during such period, an overview of such improvements, the rationale for such improvements, and an analysis of how such improvements will enable the authority to meet its goals, objectives, and mission.*

*(e) CITIZEN PARTICIPATION.—*

*(1) IN GENERAL.—Before submitting a plan under this section or an amendment under section 108(f) to a plan, a local housing and management authority shall make the plan or amendment publicly available in a manner that affords affected public housing residents and assisted families under title III, citizens, public agencies, entities providing assistance and services for homeless families, and other interested parties an opportunity, for a period not shorter than 60 days and ending at a time that reasonably provides for compliance with the requirements of paragraph (2), to examine its content and to submit comments to the authority.*

*(2) CONSIDERATION OF COMMENTS.—A local housing and management authority shall consider any comments or views provided pursuant to paragraph (1) in preparing a final plan or amendment for submission to the Secretary. A summary of such comments or views shall be attached to the plan, amendment, or report submitted. The submitted plan, amendment, or report shall be made publicly available upon submission.*

*(f) LOCAL REVIEW.—Before submitting a plan under this section to the Secretary, the local housing and management authority shall submit the plan to any local elected official or officials responsible for appointing the members of the board of directors (or other similar governing body) of the local housing and management authority for review and approval.*

*(g) PLANS FOR SMALL LHMA'S AND LHMA'S ADMINISTERING ONLY RENTAL ASSISTANCE.—The Secretary shall establish requirements for submission of plans under this section and the information to be included in such plans applicable to housing and management authorities that own or operate less than 250 public housing dwelling units and shall establish requirements for such submission and information applicable to authorities that only administer housing assistance under title III (and do not own or operate public housing). Such requirements shall waive any requirements under this section that the Secretary determines are burdensome or unnecessary for such agencies.*

***SEC. 108. REVIEW OF PLANS.***

*(a) REVIEW AND NOTICE.—*

*(1) REVIEW.—The Secretary shall conduct a limited review of each local housing management plan submitted to the Secretary to ensure that the plan is complete and complies with the requirements of section 107. The Secretary shall have the discretion to review a plan only to the extent that the Secretary considers review is necessary.*

*(2) NOTICE.—The Secretary shall notify each local housing and management authority submitting a plan whether the plan complies with such requirements not later than 75 days after receiving the plan. If the Secretary does not notify the local housing and management authority, as required under this subsection and subsection (b), the plan shall be considered, for purposes of this Act, to have been determined to comply with the requirements under section 107 and the authority shall be considered to have been notified of compliance upon the expiration of such 75-day period.*

*(b) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan, as submitted, does not comply with the requirements under section 107, the Secretary shall specify in the notice under subsection (a) the reasons for the noncompliance and any modifications necessary for the plan to meet the requirements under section 107.*

*(c) STANDARDS FOR DETERMINATION OF NONCOMPLIANCE.—The Secretary may determine that a plan does not comply with the requirements under section 107 only if—*

*(1) the plan is incomplete in significant matters required under such section;*

*(2) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan;*

*(3) the Secretary determines that the plan does not comply with Federal law or violates the purposes of this Act because it fails to provide housing that will be viable on a long-term basis at a reasonable cost;*

*(4) the plan plainly fails to adequately identify the needs of low-income families for housing assistance in the jurisdiction of the authority;*

*(5) the plan plainly fails to adequately identify the capital improvement needs for public housing developments in the jurisdiction of the authority;*

*(6) the activities identified in the plan are plainly inappropriate to address the needs identified in the plan; or*

*(7) the plan is inconsistent with the requirements of this Act.*

*(d) TREATMENT OF EXISTING PLANS.—Notwithstanding any other provision of this title, a local housing and management authority shall be considered to have submitted a plan under this section if the authority has submitted to the Secretary a comprehensive plan under section 14(e) of the United States Housing Act of 1937 (as in effect immediately before the enactment of this Act) or under the comprehensive improvement assistance program under such section 14, and the Secretary has approved such plan, before January 1, 1994. The Secretary shall provide specific procedures and requirements for such authorities to amend such plans by submitting only such additional information as is necessary to comply with the requirements of section 107.*

*(e) ACTIONS TO CHANGE PLAN.—A local housing and management authority that has submitted a plan under section 107 may change actions or policies described in the plan before submission and review of the plan of the authority for the next fiscal year only if—*

(1) in the case of costly or nonroutine changes, the authority submits to the Secretary an amendment to the plan under subsection (f) which is reviewed in accordance with such subsection; or

(2) in the case of inexpensive or routine changes, the authority describes such changes in such local housing management plan for the next fiscal year.

(f) AMENDMENTS TO PLAN.—

(1) IN GENERAL.—During the annual or 5-year period covered by the plan for a local housing and management authority, the authority may submit to the Secretary any amendments to the plan.

(2) REVIEW.—The Secretary shall conduct a limited review of each proposed amendment submitted under this subsection to determine whether the plan, as amended by the amendment, complies with the requirements of section 107 and notify each local housing and management authority submitting the amendment whether the plan, as amended, complies with such requirements not later than 30 days after receiving the amendment. If the Secretary determines that a plan, as amended, does not comply with the requirements under section 107, such notice shall indicate the reasons for the noncompliance and any modifications necessary for the plan to meet the requirements under section 107. If the Secretary does not notify the local housing and management authority as required under this paragraph, the plan, as amended, shall be considered, for purposes of this section, to comply with the requirements under section 107.

(3) STANDARDS FOR DETERMINATION OF NONCOMPLIANCE.—The Secretary may determine that a plan, as amended by a proposed amendment, does not comply with the requirements under section 107 only if—

(A) the plan, as amended, would be subject to a determination of noncompliance in accordance with the provisions of subsection (c); or

(B) the Secretary determines that—

(i) the proposed amendment is plainly inconsistent with the activities specified in the plan; or

(ii) there is evidence that challenges, in a substantial manner, any information contained in the amendment; or

(3) the Secretary determines that the plan, as amended, violates the purposes of this Act because it fails to provide housing that will be viable on a long-term basis at a reasonable cost;

(4) AMENDMENTS TO EXTEND TIME OF PERFORMANCE.—Notwithstanding any other provision of this subsection, the Secretary may not determine that any amendment to the plan of a local housing and management authority that extends the time for performance of activities assisted with amounts provided under this title fails to comply with the requirements under section 107 if the Secretary has not provided the amount of assistance set forth in the plan or has not provided the assistance in a timely manner.

**SEC. 109. REPORTING REQUIREMENTS.**

(a) PERFORMANCE AND EVALUATION REPORT.—Each local housing and management authority shall annually submit to the Accreditation Board established under section 401, on a date determined by such Board, a performance and evaluation report concerning the use of funds made available under this Act. The report of the local housing and management authority shall include an assessment by the authority of the relationship of such use of funds made available under this Act, as well as the use of other funds, to the needs identified in the local housing management plan and to the purposes of this Act. The local housing and management authority shall certify that the report was available for review and comment by affected tenants prior to its submission to the Board.

(b) REVIEW OF LHMA'S.—The Accreditation Board established under section 401 shall, at least on an annual basis, make such reviews as may be necessary or appropriate to determine whether each local housing and management authority receiving assistance under this section—

(1) has carried out its activities under this Act in a timely manner and in accordance with its local housing management plan;

(2) has a continuing capacity to carry out its local housing management plan in a timely manner; and

(3) has satisfied, or has made reasonable progress towards satisfying, such performance standards as shall be prescribed by the Board.

(c) RECORDS.—Each local housing and management authority shall collect, maintain, and submit to the Accreditation Board established under section 401 such data and other program records as the Board may require, in such form and in accordance with such schedule as the Board may establish.

**SEC. 110. PET OWNERSHIP.**

(a) IN GENERAL.—Except as provided in subsections (b) and (c), a resident of a public housing dwelling unit or an assisted dwelling unit (as such term is defined in section 371) may own common household pets or have common household pets present in the dwelling unit of such resident to the extent allowed by the local housing and management authority or the owner of the assisted dwelling unit, respectively.

(b) FEDERALLY ASSISTED RENTAL HOUSING FOR THE ELDERLY OR DISABLED.—Pet ownership in housing assisted under this Act that is federally assisted rental housing for the elderly or handicapped (as such term is defined in section 227 of the Housing and Urban-Rural Recovery Act of 1983) shall be governed by the provisions of section 227 of such Act.

(c) ELDERLY FAMILIES IN PUBLIC AND ASSISTED HOUSING.—Responsible ownership of common household pets shall not be denied any elderly or disabled family who resides in a dwelling unit in public housing or an assisted dwelling unit (as such term is defined in section 371), subject to the reasonable requirements of the local housing and management authority or the owner of the assisted dwelling unit, as applicable. This subsection shall not apply to units in public housing or assisted dwelling units that are located in federally assisted rental housing for the elderly or handicapped referred to in subsection (b).

**SEC. 111. ADMINISTRATIVE GRIEVANCE PROCEDURE.**

(a) REQUIREMENTS.—Each local housing and management authority receiving assistance under this Act shall establish and implement an administrative grievance procedure under which residents of public housing will—

(1) be advised of the specific grounds of any proposed adverse local housing and management authority action;

(2) have an opportunity for a hearing before an impartial party (including appropriate employees of the local housing and management authority) upon timely request within a reasonable period of time;

(3) have an opportunity to examine any documents or records or regulations related to the proposed action;

(4) be entitled to be represented by another person of their choice at any hearing;

(5) be entitled to ask questions of witnesses and have others make statements on their behalf; and

(6) be entitled to receive a written decision by the local housing and management authority on the proposed action.

(b) EXCLUSION FROM ADMINISTRATIVE PROCEDURE OF GRIEVANCES CONCERNING EVICTIONS FROM PUBLIC HOUSING.—A local housing and management authority shall exclude from its procedure established under subsection (a) any grievance concerning an eviction from or termination of tenancy in public housing in any State which requires that, prior to eviction, a resident be provided a hearing in court which the Secretary determines provides the basic elements of due process.

(c) INAPPLICABILITY TO CHOICE-BASED RENTAL HOUSING ASSISTANCE.—This section may not be construed to require any local housing and management authority to establish or implement an administrative grievance procedure with respect to assisted families under title III.

**SEC. 112. HEADQUARTERS RESERVE FUND.**

(a) ANNUAL RESERVATION OF AMOUNTS.—Notwithstanding any other provision of law, the Secretary may retain not more than 3 percent of the amounts appropriated to carry out title II for any fiscal year for use in accordance with this section.

(b) USE OF AMOUNTS.—Any amounts that are retained under subsection (a) or appropriated or otherwise made available for use under this section shall be available for subsequent allocation to specific areas and communities, and may only be used for the Department of Housing and Urban Development and—

(1) unforeseen housing needs resulting from natural and other disasters;

(2) housing needs resulting from emergencies, as certified by the Secretary, other than such disasters;

(3) housing needs related to a settlement of litigation, including settlement of fair housing litigation;

(4) providing technical assistance, training, and electronic information systems for the Department of Housing and Urban Development, local housing and management authorities, residents, resident councils, and resident management corporations to improve management of such authorities, except that the provision of assistance under this paragraph may not involve expenditure of amounts retained under subsection (a) for travel;

(5)(A) providing technical assistance, directly or indirectly, for local housing and management authorities, residents, resident councils, resident management corporations, and nonprofit and other entities in connection with implementation of a homeownership program under section 251, except that grants under this paragraph may not exceed $100,000; and (B) establishing a public housing homeownership program data base; and

(6) needs related to the Secretary's actions regarding troubled local housing and management authorities under this Act.

Housing needs under this subsection may be met through the provision of assistance in accordance with title II or title III, or both.

**SEC. 113. LABOR STANDARDS.**

(a) IN GENERAL.—Any contract for grants, sale, or lease pursuant to this Act relating to public housing shall contain the following provisions:

(1) OPERATION.—A provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all contractors and persons employed in the operation of the low-income housing development involved.

(2) PRODUCTION.—A provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a–276a–5), shall be paid to all laborers and mechanics employed in the production of the development involved.

The Secretary shall require certification as to compliance with the provisions of this section

*before making any payment under such contract.*

*(b) EXCEPTIONS.—Subsection (a) and the provisions relating to wages (pursuant to subsection (a)) in any contract for grants, sale, or lease pursuant to this Act relating to public housing, shall not apply to any of the following individuals:*

*(1) VOLUNTEERS.—Any individual who—*

*(A) performs services for which the individual volunteered;*

*(B)(i) does not receive compensation for such services; or*

*(ii) is paid expenses, reasonable benefits, or a nominal fee for such services; and*

*(C) is not otherwise employed at any time in the construction work.*

*(2) RESIDENTS EMPLOYED BY LHMA.—Any resident of a public housing development who (A) is an employee of the local housing and management authority for the development, (B) performs services in connection with the operation of a low-income housing project owned or managed by such authority, and (C) is not a member of a bargaining unit represented by a union that has a collective bargaining agreement with the local housing and management authority.*

*(3) RESIDENTS IN TRAINING PROGRAMS.—Any individuals participating in a job training program or other program designed to promote economic self-sufficiency.*

*(c) DEFINITION.—For purposes of this section, the terms "operation" and "production" have the meanings given the term in section 273.*

***SEC. 114. NONDISCRIMINATION.***

*(a) IN GENERAL.—No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with amounts made available under this Act. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.*

*(b) CIVIL RIGHTS COMPLIANCE.—Each local housing and management authority that receives grant amounts under this Act shall use such amounts and carry out its local housing management plan approved under section 108 in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Americans With Disabilities Act of 1990, and shall affirmatively further fair housing.*

***SEC. 115. PROHIBITION ON USE OF FUNDS.***

*None of the funds made available to the Department of Housing and Urban Development to carry out this Act, which are obligated to State or local governments, local housing and management authorities, housing finance agencies, or other public or quasi-public housing agencies, shall be used to indemnify contractors or subcontractors of the government or agency against costs associated with judgments of infringement of intellectual property rights.*

***SEC. 116. INAPPLICABILITY TO INDIAN HOUSING.***

*Except as specifically provided by law, the provisions of this title, and titles II, III, and IV shall not apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority or to housing assisted under the Native American Housing Assistance and Self-Determination Act of 1996.*

***SEC. 117. EFFECTIVE DATE AND REGULATIONS.***

*(a) EFFECTIVE DATE.—The provisions of this Act and the amendments made by this Act shall take effect and shall apply on the date of the enactment of this Act, unless such provisions or amendments specifically provide for effectiveness or applicability on another date certain.*

*(b) REGULATIONS.—The Secretary may issue any regulations necessary to carry out this Act.*

*(c) RULE OF CONSTRUCTION.—Any failure by the Secretary to issue any regulations authorized under subsection (b) shall not affect the effectiveness of any provision of this Act or any amendment made by this Act.*

## *TITLE II—PUBLIC HOUSING*

### *Subtitle A—Block Grants*

***SEC. 201. BLOCK GRANT CONTRACTS.***

*(a) IN GENERAL.—The Secretary shall enter into contracts with local housing and management authorities under which—*

*(1) the Secretary agrees to make a block grant under this title, in the amount provided under section 202(c), for assistance for low-income housing to the local housing and management authority for each fiscal year covered by the contract; and*

*(2) the authority agrees—*

*(A) to provide safe, clean, and healthy housing that is affordable to low-income families and services for families in such housing;*

*(B) to operate, or provide for the operation, of such housing in a financially sound manner;*

*(C) to use the block grant amounts in accordance with this title and the local housing management plan for the authority that complies with the requirements of section 107;*

*(D) to involve residents of housing assisted with block grant amounts in functions and decisions relating to management and the quality of life in such housing;*

*(E) that the management of the public housing of the authority shall be subject to actions authorized under subtitle B of title IV;*

*(F) that the Secretary may take actions under section 205 with respect to improper use of grant amounts provided under the contract; and*

*(G) to otherwise comply with the requirements under this title.*

*(b) MODIFICATION.—Contracts and agreements between the Secretary and a local housing and management authority may not be amended in a manner which would—*

*(1) impair the rights of—*

*(A) leaseholders for units assisted pursuant to a contract or agreement; or*

*(B) the holders of any outstanding obligations of the local housing and management authority involved for which annual contributions have been pledged; or*

*(2) provide for payment of block grant amounts under this title in an amount exceeding the allocation for the authority determined under section 204.*

*Any rule of law contrary to this subsection shall be deemed inapplicable.*

*(c) CONDITIONS ON RENEWAL.—Each block grant contract under this section shall provide, as a condition of renewal of the contract with the local housing and management authority, that the authority's accreditation be renewed by the Housing Foundation and Accreditation Board pursuant to review under section 433 by such Board.*

***SEC. 202. GRANT AUTHORITY, AMOUNT, AND ELIGIBILITY.***

*(a) AUTHORITY.—The Secretary shall make block grants under this title to eligible local housing and management authorities in accordance with block grant contracts under section 201.*

*(b) PERFORMANCE FUNDS.—*

*(1) IN GENERAL.—The Secretary shall establish 2 funds for the provision of grants to eligible local housing and management authorities under this title, as follows:*

*(A) CAPITAL FUND.—A capital fund to provide capital and management improvements to public housing developments.*

*(B) OPERATING FUND.—An operating fund for public housing operations.*

*(2) FLEXIBILITY OF FUNDING.—A local housing and management authority may use up to 10 percent of the amounts from a grant under this title that are allocated and provided from the capital fund for activities that are eligible under section 203(a)(2) to be funded with amounts from the operating fund.*

*(c) AMOUNT OF GRANTS.—The amount of the grant under this title for a local housing and management authority for a fiscal year shall be the amount of the allocation for the authority determined under section 204, except as otherwise provided in this title and subtitle B of title IV.*

*(d) ELIGIBILITY.—A local housing and management authority shall be an eligible local housing and management authority with respect to a fiscal year for purposes of this title only if—*

*(1) the Secretary has entered into a block grant contract with the authority;*

*(2) the authority has submitted a local housing management plan to the Secretary for such fiscal year;*

*(3) the plan has been determined to comply with the requirements under section 107 and the Secretary has not notified the authority that the plan fails to comply with such requirements;*

*(4) the authority is accredited under section 433 by the Housing Foundation and Accreditation Board;*

*(5) the authority is exempt from local taxes, as provided under subsection (e), or receives a contribution, as provided under such subsection;*

*(6) no member of the board of directors or other governing body of the authority, or the executive director, has been convicted of a felony;*

*(7) the authority has entered into an agreement providing for local cooperation in accordance with subsection (f); and*

*(8) the authority has not been disqualified for a grant pursuant to section 265(a) or subtitle B of title IV.*

*(e) PAYMENTS IN LIEU OF STATE AND LOCAL TAXATION OF PUBLIC HOUSING DEVELOPMENTS.—*

*(1) EXEMPTION FROM TAXATION.—A local housing and management authority may receive a block grant under this title only if—*

*(A)(i) the developments of the authority (exclusive of any portions not assisted with amounts provided under this title) are exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision; and*

*(ii) the local housing and management authority makes payments in lieu of taxes to such taxing authority equal to 10 percent of the sum, for units charged in the developments of the authority, of the difference between the gross rent and the utility cost, or such lesser amount as is—*

*(I) prescribed by State law;*

*(II) agreed to by the local governing body in its agreement under subsection (e) for local cooperation with the local housing and management authority or under a waiver by the local governing body; or*

*(III) due to failure of a local public body or bodies other than the local housing and management authority to perform any obligation under such agreement; or*

*(B) the authority complies with the requirements under subparagraph (A) with respect to public housing developments (including public housing units in mixed-income developments), but the authority agrees that the units other than public housing units in any mixed-income developments (as such term is defined in section 221(c)(2)) shall be subject to any otherwise applicable real property taxes imposed by the State, city, county or other political subdivision.*

(2) EFFECT OF FAILURE TO EXEMPT FROM TAXATION.—Notwithstanding paragraph (1), a local housing and management authority that does not comply with the requirements under such paragraph may receive a block grant under this title, but only if the State, city, county, or other political subdivision in which the development is situated contributes, in the form of cash or tax remission, the amount by which the taxes paid with respect to the development exceed 10 percent of the gross rent and utility cost charged in the development.

(f) LOCAL COOPERATION.—In recognition that there should be local determination of the need for low-income housing to meet needs not being adequately met by private enterprise, the Secretary may not make any grant under this title to a local housing and management authority unless the governing body of the locality involved has entered into an agreement with the authority providing for the local cooperation required by the Secretary pursuant to this title.

(g) EXCEPTION.—Notwithstanding subsection (a), the Secretary may make a grant under this title for a local housing and management authority that is not an eligible local housing and management authority but only for the period necessary to secure, in accordance with this title, an alternative local housing and management authority for the public housing of the ineligible authority.

SEC. 203. ELIGIBLE AND REQUIRED ACTIVITIES.

(a) ELIGIBLE ACTIVITIES.—Except as provided in subsection (b) and in section 202(b)(2), grant amounts allocated and provided from the capital fund and grant amounts allocated and provided from the operating fund may be used only for the following activities:

(1) CAPITAL FUND ACTIVITIES.—Grant amounts from the capital fund may be used for—

(A) the production and modernization of public housing developments, including the redesign, reconstruction, and reconfiguration of public housing sites and buildings and the production of mixed-income developments;

(B) vacancy reduction;

(C) addressing deferred maintenance needs and the replacement of dwelling equipment;

(D) planned code compliance;

(E) management improvements;

(F) demolition and replacement under section 261;

(G) tenant relocation;

(H) capital expenditures to facilitate programs to improve the economic empowerment and self-sufficiency of public housing tenants; and

(I) capital expenditures to improve the security and safety of residents.

(2) OPERATING FUND ACTIVITIES.—Grant amounts from the operating fund may be used for—

(A) procedures and systems to maintain and ensure the efficient management and operation of public housing units;

(B) activities to ensure a program of routine preventative maintenance;

(C) anti-crime and anti-drug activities, including the costs of providing adequate security for public housing tenants;

(D) activities related to the provision of services, including service coordinators for elderly persons or persons with disabilities;

(E) activities to provide for management and participation in the management of public housing by public housing tenants;

(F) the costs associated with the operation and management of mixed-income developments;

(G) the costs of insurance;

(H) the energy costs associated with public housing units, with an emphasis on energy conservation;

(I) the costs of administering a public housing work program under section 106, including the costs of any related insurance needs; and

(J) activities in connection with a homeownership program for public housing residents under subtitle D, including providing financing or assistance for purchasing housing, or the provision of financial assistance to resident management corporations or resident councils to obtain training, technical assistance, and educational assistance to promote homeownership opportunities.

(b) REQUIRED CONVERSION OF ASSISTANCE FOR PUBLIC HOUSING TO RENTAL HOUSING ASSISTANCE.—

(1) REQUIREMENT.—A local housing and management authority that receives grant amounts under this title shall provide assistance in the form of rental housing assistance under title III, or appropriate site revitalization or other appropriate capital improvements approved by the Secretary, in lieu of assisting the operation and modernization of any building or buildings of public housing, if the authority provides sufficient evidence to the Secretary that the building or buildings—

(A) are on the same or contiguous sites;

(B) consist of more than 300 dwelling units;

(C) have a vacancy rate of at least 10 percent for dwelling units not in funded, on-schedule modernization programs;

(D) are identified as distressed housing for which the local housing and management authority cannot assure the long-term viability as public housing through reasonable revitalization, density reduction, or achievement of a broader range of household income; and

(E) have an estimate cost of continued operation and modernization as public housing that exceeds the cost of providing choice-based rental assistance under title III for all families in occupancy, based on appropriate indicators of cost (such as the percentage of the total development cost required for modernization).

Local housing and management agencies shall identify properties that meet the definition of subparagraphs (A) through (E).

(2) USE OF OTHER AMOUNTS.—In addition to grant amounts under this title attributable (pursuant to the formulas under section 204) to the building or buildings identified under paragraph (1), the Secretary may use amounts provided in appropriation Acts for choice-based housing assistance under title III for families residing in such building or buildings or for appropriate site revitalization or other appropriate capital improvements approved by the Secretary.

(3) ENFORCEMENT.—The Secretary shall take appropriate action to ensure conversion of any building or buildings identified under paragraph (1) and any other appropriate action under this subsection, if the local housing and management authority fails to take appropriate action under this subsection.

(4) FAILURE OF LHMA'S TO COMPLY WITH CONVERSION REQUIREMENT.—If the Secretary determines that—

(A) a local housing and management authority has failed under paragraph (1) to identify a building or buildings in a timely manner,

(B) a local housing and management authority has failed to identify one or more buildings which the Secretary determines should have been identified under paragraph (1), or

(C) one or more of the buildings identified by the local housing and management authority pursuant to paragraph (1) should not, in the determination of the Secretary, have been identified under that paragraph,

the Secretary may identify a building or buildings for conversion and take other appropriate action pursuant to this subsection.

(5) CESSATION OF UNNECESSARY SPENDING.—Notwithstanding any other provision of law, if, in the determination of the Secretary, a building or buildings meets or is likely to meet the criteria set forth in paragraph (1), the Secretary may direct the local housing and management authority to cease additional spending in connection with such building or buildings, except to the extent that additional spending is necessary to ensure safe, clean, and healthy housing until the Secretary determines or approves an appropriate course of action with respect to such building or buildings under this subsection.

(6) USE OF BUDGET AUTHORITY.—Notwithstanding any other provision of law, if a building or buildings are identified pursuant to paragraph (1), the Secretary may authorize or direct the transfer, to the choice-based or tenant-based assistance program of such authority or to appropriate site revitalization or other capital improvements approved by the Secretary, of—

(A) in the case of an authority receiving assistance under the comprehensive improvement assistance program, any amounts obligated by the Secretary for the modernization of such building or buildings pursuant to section 14 of the United States Housing Act of 1937, as in effect immediately before the date of enactment of this Act;

(B) in the case of an authority receiving public housing modernization assistance by formula pursuant to such section 14, any amounts provided to the authority which are attributable pursuant to the formula for allocating such assistance to such building or buildings;

(C) in the case of an authority receiving assistance for the major reconstruction of obsolete projects, any amounts obligated by the Secretary for the major reconstruction of such building or buildings pursuant to section 5(j)(2) of the United States Housing Act of 1937, as in effect immediately before the date of enactment of this Act; and

(D) in the case of an authority receiving assistance pursuant to the formulas under section 204, any amounts provided to the authority which are attributable pursuant to the formulas for allocating such assistance to such building or buildings.

(c) EXTENSION OF DEADLINES.—The Secretary may, for a local housing and management authority, extend any deadline established pursuant to this section or a local housing management plan for up to an additional 5 years if the Secretary makes a determination that the deadline is impracticable.

(d) COMPLIANCE WITH PLAN.—The local housing management plan submitted by a local housing and management authority (including any amendments to the plan), unless determined under section 108 not to comply with the requirements under section 107, shall be binding upon the Secretary and the local housing and management authority and the authority shall use any grant amounts provided under this title for eligible activities under subsection (a) in accordance with the plan. This subsection may not be construed to preclude changes or amendments to the plan, as authorized under section 108(e) or any actions authorized by this Act to be taken without regard to a local housing management plan.

SEC. 204. DETERMINATION OF GRANT ALLOCATION.

(a) IN GENERAL.—For each fiscal year, after reserving amounts under section 112 from the aggregate amount made available for the fiscal year for carrying out this title, the Secretary shall allocate any remaining amounts among eligible local housing and management authorities in accordance with this section, so that the sum of all of the allocations for all eligible authorities is equal to such remaining amount.

(b) ALLOCATION AMOUNT.—The Secretary shall determine the amount of the allocation for each eligible local housing and management authority, which shall be—

(1) for any fiscal year beginning after the enactment of a law containing the formulas described in paragraphs (1) and (2) of subsection

(c), the amount determined under such formulas; or

(2) for any fiscal year beginning before the expiration of such period, the sum of—

(A) the operating allocation determined under subsection (d)(1) for the authority; and

(B) the capital improvement allocation determined under subsection (d)(2) for the authority.

(c) PERMANENT ALLOCATION FORMULAS FOR CAPITAL AND OPERATING FUNDS.—

(1) ESTABLISHMENT OF CAPITAL FUND FORMULA.—The formula under this paragraph shall provide for allocating assistance under the capital fund for a fiscal year. The formula may take into account such factors as—

(A) the number of public housing dwelling units owned or operated by the local housing and management authority, the characteristics and locations of the developments, and the characteristics of the families served and to be served (including the incomes of the families);

(B) the need of the local housing and management authority to carry out rehabilitation and modernization activities, and reconstruction, production, and demolition activities related to public housing dwelling units owned or operated by the local housing and management authority, including backlog and projected future needs of the authority;

(C) the cost of constructing and rehabilitating property in the area; and

(D) the need of the local housing and management authority to carry out activities that provide a safe and secure environment in public housing units owned or operated by the local housing and management authority.

(2) ESTABLISHMENT OF OPERATING FUND FORMULA.—The formula under this paragraph shall provide for allocating assistance under the operating fund for a fiscal year. The formula may take into account such factors as—

(A) standards for the costs of operating and reasonable projections of income, taking into account the characteristics and locations of the public housing developments and characteristics of the families served and to be served (including the incomes of the families), or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed public housing development;

(B) the number of public housing dwelling units owned or operated by the local housing and management authority; and

(C) the need of the local housing and management authority to carry out anti-crime and anti-drug activities, including providing adequate security for public housing residents.

(3) DEVELOPMENT UNDER NEGOTIATED RULEMAKING PROCEDURE.—The formulas under this subsection shall be developed according to procedures for issuance of regulations under the negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code, except that the formulas shall not be contained in a regulation.

(4) REPORT.—Not later than the expiration of the 18-month period beginning upon the enactment of this Act, the Secretary shall submit a report to the Congress containing the proposed formulas established pursuant to paragraph (3) that meets the requirements of this subsection.

(d) INTERIM ALLOCATION REQUIREMENTS.—

(1) OPERATING ALLOCATION.—

(A) APPLICABILITY TO 50 PERCENT OF APPROPRIATED AMOUNTS.—Of any amounts available for allocation under this subsection for a fiscal year, 50 percent shall be used only to provide amounts for operating allocations under this paragraph for eligible local housing and management authorities.

(B) DETERMINATION.—The operating allocation under this subsection for a local housing and management authority for a fiscal year shall be an amount determined by applying, to the amount to be allocated under this paragraph, the formula used for determining the distribution of operating subsidies for fiscal year 1995 to public housing agencies (as modified under subparagraph (C)) under section 9 of the United States Housing Act of 1937, as in effect before the enactment of this Act.

(C) TREATMENT OF CHRONICALLY VACANT UNITS.—The Secretary shall revise the formula referred to in subparagraph (B) so that the formula does not provide any amounts, other than utility costs and other necessary costs (such as costs necessary for the protection of persons and property), attributable to any dwelling unit of a local housing and management authority that has been vacant continuously for 6 or more months. A unit shall not be considered vacant for purposes of this paragraph if the unit is unoccupied because of rehabilitation or renovation that is on-schedule.

(D) INCREASES IN INCOME.—The Secretary may revise the formula referred to in subparagraph (B) to provide an incentive to encourage local housing and management authorities to increase nonrental income and to increase rental income attributable to their units by encouraging occupancy by families with a broad range of incomes, including families whose incomes have increased while in occupancy and newly admitted families. Any such incentive shall provide that the local housing and management authority shall derive the full benefit of an increase in nonrental income, and such increase shall not directly result in a decrease in amounts provided to the authority under this title.

(2) CAPITAL IMPROVEMENT ALLOCATION.—

(A) APPLICABILITY TO 50 PERCENT OF APPROPRIATED AMOUNTS.—Of any amounts available for allocation under this subsection for a fiscal year, 50 percent shall be used only to provide amounts for capital improvement allocations under this paragraph for eligible local housing and management authorities.

(B) DETERMINATION.—The capital improvement allocation under this subsection for an eligible local housing and management authority for a fiscal year shall be determined by applying, to the amount to be allocated under this paragraph, the formula used for determining the distribution of modernization assistance for fiscal year 1995 to public housing agencies under section 14 of the United States Housing Act of 1937, as in effect before the enactment of this Act, except that Secretary shall establish a method for taking into consideration allocation of amounts under the comprehensive improvement assistance program.

(e) ELIGIBILITY OF UNITS ACQUIRED FROM PROCEEDS OF SALES UNDER DEMOLITION OR DISPOSITION PLAN.—If a local housing and management authority uses proceeds from the sale of units under a homeownership program in accordance with section 251 to acquire additional units to be sold to low-income families, the additional units shall be counted as public housing for purposes of determining the amount of the allocation to the authority under this section until sale by the authority, but in any case no longer than 5 years.

**SEC. 205. SANCTIONS FOR IMPROPER USE OF AMOUNTS.**

(a) IN GENERAL.—In addition to any other actions authorized under this title, if the Secretary finds pursuant to an annual financial and performance audit under section 432 that a local housing and management authority receiving grant amounts under this title has failed to comply substantially with any provision of this title, the Secretary may—

(1) terminate payments under this title to the authority;

(2) withhold from the authority amounts from the total allocation for the authority pursuant to section 204;

(3) reduce the amount of future grant payments under this title to the authority by an amount equal to the amount of such payments that were not expended in accordance with this title;

(4) limit the availability of grant amounts provided to the authority under this title to programs, projects, or activities not affected by such failure to comply;

(5) withhold from the authority amounts allocated for the authority under title III; or

(6) order other corrective action with respect to the authority.

(b) TERMINATION OF COMPLIANCE ACTION.—If the Secretary takes action under subsection (a) with respect to a local housing and management authority, the Secretary shall—

(1) in the case of action under subsection (a)(1), resume payments of grant amounts under this title to the authority in the full amount of the total allocation under section 204 for the authority at the time that the Secretary first determines that the authority will comply with the provisions of this title;

(2) in the case of action under paragraph (2), (5), or (6) of subsection (a), make withheld amounts available as the Secretary considers appropriate to ensure that the authority complies with the provisions of this title; or

(3) in the case of action under subsection (a)(4), release such restrictions at the time that the Secretary first determines that the authority will comply with the provisions of this title.

***Subtitle B—Admissions and Occupancy Requirements***

**SEC. 221. LOW-INCOME HOUSING REQUIREMENT.**

(a) PRODUCTION ASSISTANCE.—Any public housing produced using amounts provided under a grant under this title or under the United States Housing Act of 1937 shall be operated as public housing for the 40-year period beginning upon such production.

(b) OPERATING ASSISTANCE.—No portion of any public housing development operated with amounts from a grant under this title or operating assistance provided under the United States Housing Act of 1937 may be disposed of before the expiration of the 10-year period beginning upon the conclusion of the fiscal year for which the grant or such assistance was provided, except as provided in this Act.

(c) CAPITAL IMPROVEMENTS ASSISTANCE.—Amounts may be used for eligible activities under section 203(a)(2) only for the following housing developments:

(1) LOW-INCOME DEVELOPMENTS.—Amounts may be used for a low-income housing development that—

(A) is owned by local housing and management authorities;

(B) is operated as low-income rental housing and produced or operated with assistance provided under a grant under this title; and

(C) is consistent with the purposes of this title.

Any development, or portion thereof, referred to in this paragraph for which activities under section 203(a)(2) are conducted using amounts from a grant under this title shall be maintained and used as public housing for the 20-year period beginning upon the receipt of such grant. Any public housing development, or portion thereof, that received the benefit of a grant pursuant to section 14 of the United States Housing Act of 1937 shall be maintained and used as public housing for the 20-year period beginning upon receipt of such amounts.

(2) MIXED INCOME DEVELOPMENTS.—Amounts may be used for mixed-income developments, which shall be a housing development that—

(A) contains dwelling units that are available for occupancy by families other than low-income families;

(B) contains a number of dwelling units—

*(i) which units are made available (by master contract or individual lease) for occupancy only by low- and very low-income families identified by the local housing and management authority;*

*(ii) which number is not less than a reasonable number of units, including related amenities, taking into account the amount of the assistance provided by the authority compared to the total investment (including costs of operation) in the development;*

*(iii) which units are subject to the statutory and regulatory requirements of the public housing program, except that the Secretary may grant appropriate waivers to such statutory and regulatory requirements if reductions in funding or other changes to the program make continued application of such requirements impracticable;*

*(iv) which units are specially designated as dwelling units under this subparagraph, except the equivalent units in the development may be substituted for designated units during the period the units are subject to the requirements of the public housing program; and*

*(v) which units shall be eligible for assistance under this title; and*

*(C) is owned by the local housing and management authority, an affiliate controlled by it, or another appropriate entity.*

*Notwithstanding any other provision of this title, to facilitate the establishment of socioeconomically mixed communities, a local housing and management authority that uses grant amounts under this title for a mixed income development under this paragraph may, to the extent that income from such a development reduces the amount of grant amounts used for operating or other costs relating to public housing, use such resulting savings to rent privately developed dwelling units in the neighborhood of the mixed income development. Such units shall be made available for occupancy only by low-income families eligible for residency in public housing.*

***SEC. 222. FAMILY ELIGIBILITY.***

*(a) IN GENERAL.—Dwelling units in public housing may be rented only to families who are low-income families at the time of their initial occupancy of such units.*

*(b) INCOME MIX WITHIN DEVELOPMENTS.—A local housing and management authority may establish and utilize income-mix criteria for the selection of residents for dwelling units in public housing developments that limit admission to a development by selecting applicants having incomes appropriate so that the mix of incomes of families occupying the development is proportional to the income mix in the eligible population of the jurisdiction of the authority, as adjusted to take into consideration the severity of housing need. Any criteria established under this subsection shall be subject to the provisions of subsection (c).*

*(c) INCOME MIX.—*

*(1) LHMA INCOME MIX.—Of the public housing dwelling units of a local housing and management authority made available for occupancy after the date of the enactment of this Act not less than 35 percent shall be occupied by low-income families whose incomes do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary, may for purposes of this subsection, establish income ceilings higher or lower than 30 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.*

*(2) PROHIBITION OF CONCENTRATION OF LOW-INCOME FAMILIES.—A local housing and management authority may not comply with the requirements under paragraph (1) by concentrating very low-income families (or other families with relatively low incomes) in public housing dwelling units in certain public housing developments or certain buildings within developments. The Secretary may review the income and occupancy characteristics of the public housing developments, and the buildings of such developments, of local housing and management authorities to ensure compliance with the provisions of this paragraph.*

*(d) WAIVER OF ELIGIBILITY REQUIREMENTS FOR OCCUPANCY BY POLICE OFFICERS.—*

*(1) AUTHORITY AND WAIVER.—To provide occupancy in public housing dwelling units to police officers and other law enforcement or security personnel (who are not otherwise eligible for residence in public housing) and to increase security for other public housing residents in developments where crime has been a problem, a local housing and management authority may, with respect to such units and subject to paragraph (2)—*

*(A) waive—*

*(i) the provisions of subsection (a) of this section and section 225(a);*

*(ii) the applicability of—*

*(I) any preferences for occupancy established under section 223;*

*(II) the minimum rental amount established pursuant to section 225(b) and any maximum monthly rental amount established pursuant to such section;*

*(III) any criteria relating to project income mix established under subsection (b);*

*(IV) the income mix requirements under subsection (c); and*

*(V) any other occupancy limitations or requirements; and*

*(B) establish special rent requirements and other terms and conditions of occupancy.*

*(2) CONDITIONS OF WAIVER.—A local housing and management authority may take the actions authorized in paragraph (1) only if authority determines that such actions will increase security in the public housing developments involved and will not result in a significant reduction of units available for residence by low-income families.*

*(e) LOSS OF ASSISTANCE FOR TERMINATION OF TENANCY.—A local housing and management authority shall, consistent with policies described in the local housing management plan of the authority, establish policies providing that a family residing in a public housing dwelling unit whose tenancy is terminated for serious violations of the terms or conditions of the lease shall—*

*(1) lose any right to continued occupancy in public housing under this title; and*

*(2) immediately become ineligible for admission to public housing under this title or for housing assistance under title III—*

*(A) in the case of a termination due to drug-related criminal activity, for a period of not less than 3 years from the date of the termination; or*

*(B) for other terminations, for a reasonable period of time as determined period of time as determined by the local housing and management authority.*

***SEC. 223. PREFERENCES FOR OCCUPANCY.***

*(a) AUTHORITY TO ESTABLISH.—Any local housing and management authority may establish a system for making dwelling units in public housing available for occupancy that provides preference for such occupancy to families having certain characteristics.*

*(b) CONTENT.—Each system of preferences established pursuant to this section shall be based upon local housing needs and priorities, as determined by the local housing and management authority using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 107(e) or under the requirements applicable to comprehensive housing affordability strategy for the relevant jurisdiction.*

***SEC. 224. ADMISSION PROCEDURES.***

*(a) ADMISSION REQUIREMENTS.—A local housing and management authority shall ensure that each family residing in a public housing development owned or administered by the authority is admitted in accordance with the procedures established under this title by the authority and the income limits under section 222.*

*(b) AVAILABILITY OF CRIMINAL RECORDS.—A local housing and management authority may request and obtain records regarding the criminal convictions of applicants for, or tenants of, public housing as provided in section 646 of the Housing and Community Development Act of 1992.*

*(c) NOTIFICATION OF APPLICATION DECISIONS.—A local housing and management authority shall establish procedures designed to provide for notification to an applicant for admission to public housing of the determination with respect to such application, the basis for the determination, and, if the applicant is determined to be eligible for admission, the projected date of occupancy (to the extent such date can reasonably be determined). If an authority denies an applicant admission to public housing, the authority shall notify the applicant that the applicant may request an informal hearing on the denial within a reasonable time of such notification.*

*(d) CONFIDENTIALITY FOR VICTIMS OF DOMESTIC VIOLENCE.—A local housing and management authority shall be subject to the restrictions regarding release of information relating to the identity and new residence of any family in public housing that was a victim of domestic violence that are applicable to shelters pursuant to the Family Violence Prevention and Services Act. The authority shall work with the United States Postal Service to establish procedures consistent with the confidentiality provisions in the Violence Against Women Act of 1994.*

*(e) TRANSFERS.—A local housing and management authority may apply, to each public housing resident seeking to transfer from one development to another development owned or operated by the authority, the screening procedures applicable at such time to new applicants for public housing.*

***SEC. 225. FAMILY RENTAL PAYMENT.***

*(a) RENTAL CONTRIBUTION BY RESIDENT.—*

*(1) IN GENERAL.—A family shall pay as monthly rent for a dwelling unit in public housing the amount that the local housing and management authority determines is appropriate with respect to the family and the unit, which shall be—*

*(A) based upon factors determined by the authority, which may include the adjusted income of the resident, type and size of dwelling unit, operating and other expenses of the authority, or any other factors that the authority considers appropriate; and*

*(B) an amount that is not less than the minimum monthly rental amount under subsection (b)(1) nor more than any maximum monthly rental amount established for the dwelling unit pursuant to subsection (b)(2).*

*Notwithstanding any other provision of this subsection, the amount paid by an elderly family or a disabled family for monthly rent for a dwelling unit in public housing may not exceed 30 percent of the family's adjusted monthly income. Notwithstanding any other provision of this subsection, the amount paid by a family whose head (or whose spouse) is a veteran (as such term is defined in section 203(b) of the National Housing Act) for monthly rent for a dwelling unit in public housing may not exceed 30 percent of the family's adjusted monthly income. In determining the amount of the rent charged under this paragraph for a dwelling unit, a local housing and management authority shall take into consideration the characteristics of the population served by the authority,*

*the goals of the local housing management plan for the authority, and the goals under the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (or any consolidated plan incorporating such strategy) for the applicable jurisdiction.*

*(2) EXCEPTIONS.—Notwithstanding any other provision of this section, the amount paid for monthly rent for a dwelling unit in public housing may not exceed 30 percent of the family's adjusted monthly income for any family who—*

*(A) upon the date of the enactment of this Act, is residing in any dwelling unit in public housing and—*

*(i) is an elderly family; or*

*(ii) is a disabled family; or*

*(B) has an income that does not exceed 30 percent of the median income for the area (as determined by the Secretary with adjustments for smaller and larger families).*

*(b) ALLOWABLE RENTS.—*

*(1) MINIMUM RENTAL.—Each local housing and management authority shall establish, for each dwelling unit in public housing owned or administered by the authority, a minimum monthly rental contribution toward the rent (which rent shall include any amount allowed for utilities), which—*

*(A) may not be less than $25, nor more than $50; and*

*(B) may be increased annually by the authority, except that no such annual increase may exceed 10 percent of the amount of the minimum monthly rental contribution in effect for the preceding year.*

*Notwithstanding the preceding sentence, a local housing and management authority may, in its sole discretion, grant an exemption in whole or in part from payment of the minimum monthly rental contribution established under this paragraph to any family unable to pay such amount because of severe financial hardships. Severe financial hardships may include situations where the family is awaiting an eligibility determination for a Federal, State, or local assistance program, where the family would be evicted as a result of imposition of the minimum rent, and other situations as may be determined by the authority.*

*(2) MAXIMUM RENTAL.—Each local housing and management authority may establish, for each dwelling unit in public housing owned or administered by the authority, a maximum monthly rental amount, which shall be an amount determined by the authority which is based on, but does not exceed—*

*(A) the average, for dwelling units of similar size in public housing developments owned and operated by such authority, of operating expenses attributable to such units;*

*(B) the reasonable rental value of the unit; or*

*(C) the local market rent for comparable units of similar size.*

*(c) INCOME REVIEWS.—If a local housing and management authority establishes the amount of rent paid by a family for a public housing dwelling unit based on the adjusted income of the family, the authority shall review the incomes of such family occupying dwelling units in public housing owned or administered by the authority not less than annually.*

*(d) REVIEW OF MAXIMUM AND MINIMUM RENTS.—*

*(1) RENTAL CHARGES.—If the Secretary determines, at any time, that a significant percentage of the public housing dwelling units owned or operated by a large local housing and management authority are occupied by households paying more than 30 percent of their adjusted incomes for rent, the Secretary shall review the maximum and minimum monthly rental amounts established by the authority.*

*(2) POPULATION SERVED.—If the Secretary determines, at any time, that less than 40 percent of the public housing dwelling units owned or operated by a large local housing and management authority are occupied by households whose incomes do not exceed 30 percent of the area median income, the Secretary shall review the maximum and minimum monthly rental amounts established by the authority.*

*(3) MODIFICATION OF MAXIMUM AND MINIMUM RENTAL AMOUNTS.—If, pursuant to review under this subsection, the Secretary determines that the maximum and minimum rental amounts for a large local housing and management authority are not appropriate to serve the needs of the low-income population of the jurisdiction served by the authority (taking into consideration the financial resources and costs of the authority), as identified in the approved local housing management plan of the authority, the Secretary may require the authority to modify the maximum and minimum monthly rental amounts.*

*(4) LARGE LHMA.—For purposes of this subsection, the term "large local housing and management authority" means a local housing and management authority that owns or operates 1250 or more public housing dwelling units.*

*(e) PHASE-IN OF RENT CONTRIBUTION INCREASES.—*

*(1) IN GENERAL.—Except as provided in paragraph (2), for any family residing in a dwelling unit in public housing upon the date of the enactment of this Act, if the monthly contribution for rental of an assisted dwelling unit to be paid by the family upon initial applicability of this title is greater than the amount paid by the family under the provisions of the United States Housing Act of 1937 immediately before such applicability, any such resulting increase in rent contribution shall be—*

*(A) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more of such contribution before initial applicability; and*

*(B) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent of such contribution before initial applicability.*

*(2) EXCEPTION.—The minimum rent contribution requirement under subsection (b)(1)(A) shall apply to each family described in paragraph (1) of this subsection, notwithstanding such paragraph.*

***SEC. 226. LEASE REQUIREMENTS.***

*In renting dwelling units in a public housing development, each local housing and management authority shall utilize leases that—*

*(1) do not contain unreasonable terms and conditions;*

*(2) obligate the local housing and management authority to maintain the development in compliance with the housing quality requirements under section 232;*

*(3) require the local housing and management authority to give adequate written notice of termination of the lease, which shall not be less than—*

*(A) the period provided under the applicable law of the jurisdiction or 14 days, whichever is less, in the case of nonpayment of rent;*

*(B) a reasonable period of time, but not to exceed 14 days, when the health or safety of other residents or local housing and management authority employees is threatened; and*

*(C) the period of time provided under the applicable law of the jurisdiction, in any other case;*

*(4) require that the local housing and management authority may not terminate the tenancy except for violation of the terms or conditions of the lease, violation of applicable Federal, State, or local law, or for other good cause;*

*(5) provide that the local housing and management authority may terminate the tenancy of a public housing resident for any activity, engaged in by a public housing resident, any member of the resident's household, or any guest or other person under the resident's control, that—*

*(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the local housing and management authority or other manager of the housing;*

*(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or*

*(C) is criminal activity (including drug-related criminal activity) on or off such premises;*

*(6) provide that any occupancy in violation of the provisions of section 105 shall be cause for termination of tenancy; and*

*(7) specify that, with respect to any notice of eviction or termination, notwithstanding any State law, a public housing resident shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records or regulations directly related to the eviction or termination.*

***SEC. 227. DESIGNATED HOUSING FOR ELDERLY AND DISABLED FAMILIES***

*(a) AUTHORITY TO PROVIDE DESIGNATED HOUSING.—*

*(1) IN GENERAL.—Subject only to provisions of this section and notwithstanding any other provision of law, a local housing and management authority for which the information required under subsection (d) is in effect may provide public housing developments (or portions of developments) designated for occupancy by (A) only elderly families, (B) only disabled families, or (C) elderly and disabled families.*

*(2) PRIORITY FOR OCCUPANCY.—In determining priority for admission to public housing developments (or portions of developments) that are designated for occupancy as provided in paragraph (1), the local housing and management authority may make units in such developments (or portions) available only to the types of families for whom the development is designated.*

*(3) ELIGIBILITY OF NEAR-ELDERLY FAMILIES.—If a local housing and management authority determines that there are insufficient numbers of elderly families to fill all the units in a development (or portion of a development) designated under paragraph (1) for occupancy by only elderly families, the authority may provide that near-elderly families may occupy dwelling units in the development (or portion).*

*(b) STANDARDS REGARDING EVICTIONS.—Except as provided in section 105(b)(1)(B), any tenant who is lawfully residing in a dwelling unit in a public housing development may not be evicted or otherwise required to vacate such unit because of the designation of the development (or portion of a development) pursuant to this section or because of any action taken by the Secretary or any local housing and management authority pursuant to this section.*

*(c) RELOCATION ASSISTANCE.—A local housing and management authority that designates any existing development or building, or portion thereof, for occupancy as provided under subsection (a)(1) shall provide, to each person and family who agrees to be relocated in connection with such designation—*

*(1) notice of the designation and an explanation of available relocation benefits, as soon as is practicable for the authority and the person or family;*

*(2) access to comparable housing (including appropriate services and design features), which may include choice-based rental housing assistance under title III, at a rental rate paid by the tenant that is comparable to that applicable to the unit from which the person or family has vacated; and*

*(3) payment of actual, reasonable moving expenses.*

*(d) REQUIRED INCLUSIONS IN LOCAL HOUSING MANAGEMENT PLAN.—A local housing and management authority may designate a development*

(or portion of a development) for occupancy under subsection (a)(1) only if the authority, as part of the authority's local housing management plan—

(1) establishes that the designation of the development is necessary—

(A) to achieve the housing goals for the jurisdiction under the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

(B) to meet the housing needs of the low-income population of the jurisdiction; and

(2) includes a description of—

(A) the development (or portion of a development) to be designated;

(B) the types of tenants for which the development is to be designated;

(C) any supportive services to be provided to tenants of the designated development (or portion);

(D) how the design and related facilities (as such term is defined in section 202(d)(8) of the Housing Act of 1959) of the development accommodate the special environmental needs of the intended occupants; and

(E) any plans to secure additional resources or housing assistance to provide assistance to families that may have been housed if occupancy in the development were not restricted pursuant to this section.

For purposes of this subsection, the term 'supportive services' means services designed to meet the special needs of residents. Notwithstanding section 108, the Secretary may approve a local housing management plan without approving the portion of the plan covering designation of a development pursuant to this section.

(e) EFFECTIVENESS.—

(1) Initial 5-year effectiveness.—The information required under subsection (d) shall be in effect for purposes of this section during the 5-year period that begins upon notification under section 108(a) of the local housing and management authority that the information complies with the requirements under section 107 and this section.

(2) RENEWAL.—Upon the expiration of the 5-year period under paragraph (1) or any 2-year period under this paragraph, an authority may extend the effectiveness of the designation and information for an additional 2-year period (that begins upon such expiration) by submitting to the Secretary any information needed to update the information. The Secretary may not limit the number of times a local housing and management authority extends the effectiveness of a designation and information under this paragraph.

(3) TREATMENT OF EXISTING PLANS.—Notwithstanding any other provision of this section, a local housing and management authority shall be considered to have submitted the information required under this section if the authority has submitted to the Secretary an application and allocation plan under section 7 of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act) that has not been approved or disapproved before such date of enactment.

(4) TRANSITION PROVISION.—Any application and allocation plan approved under section 7 of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act) before such date of enactment shall be considered to be the information required to be submitted under this section and that is in effect for purposes of this section for the 5-year period beginning upon such approval.

(g) INAPPLICABILITY OF UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITIONS POLICY ACT OF 1970.—No resident of a public housing development shall be considered to be displaced for purposes of the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 because of the designation of any existing development or building, or portion thereof, for occupancy as provided under subsection (a) of this section.

(h) USE OF AMOUNTS.—Any amounts appropriated pursuant to section 10(b) of the Housing Opportunity Program Extension Act of 1996 (Public Law 104–120) may also be used for choice-based rental housing assistance under title III for local housing and management authorities to implement this section.

### Subtitle C—Management

**SEC. 231. MANAGEMENT PROCEDURES.**

(a) SOUND MANAGEMENT.—A local housing and management authority that receives grant amounts under this title shall establish and comply with procedures and practices sufficient to ensure that the public housing developments owned or administered by the authority are operated in a sound manner.

(b) ACCOUNTING SYSTEM FOR RENTAL COLLECTIONS AND COSTS.—

(1) ESTABLISHMENT.—Each local housing and management authority that receives grant amounts under this title shall establish and maintain a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair, and other operating costs) for each project and operating cost center (as determined by the Secretary).

(2) ACCESS TO RECORDS.—Each local housing and management authority shall make available to the general public the information required pursuant to paragraph (1) regarding collections and costs.

(3) EXEMPTION.—The Secretary may permit authorities owning or operating fewer than 500 dwelling units to comply with the requirements of this subsection by accounting on an authority-wide basis.

(c) MANAGEMENT BY OTHER ENTITIES.—Except as otherwise provided under this Act, a local housing and management authority may contract with any other entity to perform any of the management functions for public housing owned or operated by the local housing and management authority.

**SEC. 232. HOUSING QUALITY REQUIREMENTS.**

(a) IN GENERAL.—Each local housing and management authority that receives grant amounts under this Act shall maintain its public housing in a condition that complies—

(1) in the case of public housing located in a jurisdiction which has in effect laws, regulations, standards, or codes regarding habitability of residential dwellings, with such applicable laws, regulations, standards, or codes; or

(2) in the case of public housing located in a jurisdiction which does not have in effect laws, regulations, standards, or codes described in paragraph (1), with the housing quality standards established under subsection (b).

(b) FEDERAL HOUSING QUALITY STANDARDS.—The Secretary shall establish housing quality standards under this subsection that ensure that public housing dwelling units are safe, clean, and healthy. Such standards shall include requirements relating to habitability, including maintenance, health and sanitation factors, condition, and construction of dwellings, and shall, to the greatest extent practicable, be consistent with the standards established under section 328(b). The Secretary shall differentiate between major and minor violations of such standards.

(c) DETERMINATIONS.—Each local housing and management authority providing housing assistance shall identify, in the local housing management plan of the authority, whether the authority is utilizing the standard under paragraph (1) or (2) of subsection (a).

(d) ANNUAL INSPECTIONS.—Each local housing and management authority that owns or operates public housing shall make an annual inspection of each public housing development to determine whether units in the development are maintained in accordance with the requirements under subsection (a). The authority shall submit the results of such inspections to the Secretary and the Inspector General for the Department of Housing and Urban Development and such results shall be available to the Housing Foundation and Accreditation Board established under title IV and any auditor conducting an audit under section 432.

**SEC. 233. EMPLOYMENT OF RESIDENTS.**

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) is amended—

(1) in subsection (c)(1)—

(A) in subparagraph (A)—

(i) by striking "public and Indian housing agencies" and inserting "local housing and management authorities and recipients of grants under the Native American Housing Assistance and Self-Determination Act of 1996"; and

(ii) by striking "development assistance" and all that follows through the end and inserting "assistance provided under title II of the United States Housing Act of 1996 and used for the housing production, operation, or capital needs."; and

(B) in subparagraph (B)(ii), by striking "managed by the public or Indian housing agency" and inserting "assisted by the local housing and management authority or the recipient of a grant under the Native American Housing Assistance and Self-Determination Act of 1996"; and

(2) in subsection (d)(1)—

(A) in subparagraph (A)—

(i) by striking "public and Indian housing agencies" and inserting "local housing and management authorities and recipients of grants under the Native American Housing Assistance and Self-Determination Act of 1996"; and

(ii) by striking "development assistance" and all that follows through "section 14 of that Act" and inserting "assistance provided under title II of the United States Housing Act of 1996 and used for the housing production, operation, or capital needs"; and

(B) in subparagraph (B)(ii), by striking "operated by the public or Indian housing agency" and inserting "assisted by the local housing and management authority or the recipient of a grant under the Native American Housing Assistance and Self-Determination Act of 1996".

**SEC. 234. RESIDENT COUNCILS AND RESIDENT MANAGEMENT CORPORATIONS.**

(a) RESIDENT COUNCILS.—The residents of a public housing development may establish a resident council for the development for purposes of consideration of issues relating to residents, representation of resident interests, and coordination and consultation with a local housing and management authority. A resident council shall be an organization or association that—

(1) is nonprofit in character;

(2) is representative of the residents of the eligible housing;

(3) adopts written procedures providing for the election of officers on a regular basis; and

(4) has a democratically elected governing board, which is elected by the residents of the eligible housing on a regular basis.

(b) RESIDENT MANAGEMENT CORPORATIONS.—

(1) ESTABLISHMENT.—The residents of a public housing development may establish a resident management corporation for the purpose of assuming the responsibility for the management of the development under section 235 or purchasing a development.

(2) REQUIREMENTS.—A resident management corporation shall be a corporation that—

(A) is nonprofit in character;

(B) is organized under the laws of the State in which the development is located;

(C) has as its sole voting members the residents of the development; and

(D) is established by the resident council for the development or, if there is not a resident council, by a majority of the households of the development.

SEC. 235. MANAGEMENT BY RESIDENT MANAGEMENT CORPORATION.

(a) AUTHORITY.—A local housing and management authority may enter into a contract under this section with a resident management corporation to provide for the management of public housing developments by the corporation.

(b) CONTRACT.—A contract under this section for management of public housing developments by a resident management corporation shall establish the respective management rights and responsibilities of the corporation and the local housing and management authority. The contract shall be consistent with the requirements of this Act applicable to public housing development and may include specific terms governing management personnel and compensation, access to public housing records, submission of and adherence to budgets, rent collection procedures, resident income verification, resident eligibility determinations, resident eviction, the acquisition of supplies and materials and such other matters as may be appropriate. The contract shall be treated as a contracting out of services.

(c) BONDING AND INSURANCE.—Before assuming any management responsibility for a public housing development, the resident management corporation shall provide fidelity bonding and insurance, or equivalent protection. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the local housing and management authority against loss, theft, embezzlement, or fraudulent acts on the part of the resident management corporation or its employees.

(d) BLOCK GRANT ASSISTANCE AND INCOME.—A contract under this section shall provide for—

(1) the local housing and management authority to provide a portion of the block grant assistance under this title to the resident management corporation for purposes of operating the public housing development covered by the contract and performing such other eligible activities with respect to the development as may be provided under the contract;

(2) the amount of income expected to be derived from the development itself (from sources such as rents and charges);

(3) the amount of income to be provided to the development from the other sources of income of the local housing and management authority (such as interest income, administrative fees, and rents); and

(4) any income generated by a resident management corporation of a public housing development that exceeds the income estimated under the contract shall be used for eligible activities under section 203(a).

(e) CALCULATION OF TOTAL INCOME.—

(1) MAINTENANCE OF SUPPORT.—Subject to paragraph (2), the amount of assistance provided by a local housing and management authority to a public housing development managed by a resident management corporation may not be reduced during the 3-year period beginning on the date on which the resident management corporation is first established for the development.

(2) REDUCTIONS AND INCREASES IN SUPPORT.—If the total income of a local housing and management authority is reduced or increased, the income provided by the local housing and management authority to a public housing development managed by a resident management corporation shall be reduced or increased in proportion to the reduction or increase in the total income of the authority, except that any reduction in block grant amounts under this title to the authority that occurs as a result of fraud, waste, or mismanagement by the authority shall not affect the amount provided to the resident management corporation.

SEC. 236. TRANSFER OF MANAGEMENT OF CERTAIN HOUSING TO INDEPENDENT MANAGER AT REQUEST OF RESIDENTS.

(a) AUTHORITY.—The Secretary may transfer the responsibility and authority for management of specified housing (as such term is defined in subsection (h)) from a local housing and management authority to an eligible management entity, in accordance with the requirements of this section, if—

(1) such housing is owned or operated by a local housing and management authority that is—

(A) not accredited under section 433 by the Housing Foundation and Accreditation Board; or

(B) designated as a troubled authority under section 431(a)(2); and

(2) the Secretary determines that—

(A) such housing has deferred maintenance, physical deterioration, or obsolescence of major systems and other deficiencies in the physical plant of the project;

(B) such housing is occupied predominantly by families with children who are in a severe state of distress, characterized by such factors as high rates of unemployment, teenage pregnancy, single-parent households, long-term dependency on public assistance and minimal educational achievement;

(C) such housing is located in an area such that the housing is subject to recurrent vandalism and criminal activity (including drug-related criminal activity); and

(D) the residents can demonstrate that the elements of distress for such housing specified in subparagraphs (A) through (C) can be remedied by an entity that has a demonstrated capacity to manage, with reasonable expenses for modernization.

Such a transfer may be made only as provided in this section, pursuant to the approval by the Secretary of a request for the transfer made by a majority vote of the residents for the specified housing, after consultation with the local housing and management authority for the specified housing.

(b) BLOCK GRANT ASSISTANCE.—Pursuant to a contract under subsection (c), the Secretary shall require the local housing and management authority for specified housing to provide to the manager for the housing, from any block grant amounts under this title for the authority, fair and reasonable amounts for operating costs for the housing. The amount made available under this subsection to a manager shall be determined by the Secretary based on the share for the specified housing of the total block grant amounts for the local housing and management authority transferring the housing, taking into consideration the operating and capital improvement needs of the specified housing, the operating and capital improvement needs of the remaining public housing units managed by the local housing and management authority, and the local housing management plan of such authority.

(c) CONTRACT BETWEEN SECRETARY AND MANAGER.—

(1) REQUIREMENTS.—Pursuant to the approval of a request under this section for transfer of the management of specified housing, the Secretary shall enter into a contract with the eligible management entity.

(2) TERMS.— A contract under this subsection shall contain provisions establishing the rights and responsibilities of the manager with respect to the specified housing and the Secretary and shall be consistent with the requirements of this Act applicable to public housing developments.

(d) COMPLIANCE WITH LOCAL HOUSING MANAGEMENT PLAN.—A manager of specified housing under this section shall comply with the approved local housing management plan applicable to the housing and shall submit such information to the local housing and management authority from which management was transferred as may be necessary for such authority to prepare and update its local housing management plan.

(e) DEMOLITION AND DISPOSITION BY MANAGER.—A manager under this section may demolish or dispose of specified housing only if, and in the manner, provided for in the local housing management plan for the authority transferring management of the housing.

(f) LIMITATION ON LHMA LIABILITY.—A local housing and management authority that is not a manager for specified housing shall not be liable for any act or failure to act by a manager or resident council for the specified housing.

(g) TREATMENT OF MANAGER.—To the extent not inconsistent with this section and to the extent the Secretary determines not inconsistent with the purposes of this Act, a manager of specified housing under this section shall be considered to be a local housing and management authority for purposes of this title.

(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) ELIGIBLE MANAGEMENT ENTITY.—The term "eligible management entity" means, with respect to any public housing development, any of the following entities that has been accredited in accordance with section 433:

(A) NONPROFIT ORGANIZATION.—A public or private nonprofit organization, which shall—

(i) include a resident management corporation or resident management organization and, as determined by the Secretary, a public or private nonprofit organization sponsored by the local housing and management authority that owns the development; and

(ii) not include the local housing and management authority that owns the development.

(B) FOR-PROFIT ENTITY.—A for-profit entity that has demonstrated experience in providing low-income housing.

(C) STATE OR LOCAL GOVERNMENT.—A State or local government, including an agency or instrumentality thereof.

(D) LOCAL HOUSING AND MANAGEMENT AUTHORITY.—A local housing and management authority (other than the local housing and management authority that owns the development). The term does not iqclude a resident council.

(2) MANAGER.—The term "manager" means any eligible management entity that has entered into a contract under this section with the Secretary for the management of specified housing.

(3) NONPROFIT.—The term "nonprofit" means, with respect to an organization, association, corporation, or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor, or individual.

(4) PRIVATE NONPROFIT ORGANIZATION.—The term "private nonprofit organization" means any private organization (including a State or locally chartered organization) that—

(A) is incorporated under State or local law;

(B) is nonprofit in character;

(C) complies with standards of financial accountability acceptable to the Secretary; and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

(5) LOCAL HOUSING AND MANAGEMENT AUTHORITY.—The term "local housing and management authority" has the meaning given such term in section 103(a).

(6) PUBLIC NONPROFIT ORGANIZATION.—The term "public nonprofit organization" means any public entity that is nonprofit in character.

(7) SPECIFIED HOUSING.—The term "specified housing" means a public housing development or developments, or a portion of a development or developments, for which the transfer of management is requested under this section. The term includes one or more contiguous buildings and an area of contiguous row houses, but in the case of a single building, the building shall be sufficiently separable from the remainder of the development of which it is part to make transfer of the management of the building feasible for purposes of this section.

SEC. 237. RESIDENT OPPORTUNITY PROGRAM.

(a) PURPOSE.—The purpose of this section is to encourage increased resident management of public housing developments, as a means of improving existing living conditions in public housing developments, by providing increased flexibility for public housing developments that are managed by residents by—

(1) permitting the retention, and use for certain purposes, of any revenues exceeding operating and project costs; and

(2) providing funding, from amounts otherwise available, for technical assistance to promote formation and development of resident management entities.

For purposes of this section, the term "public housing development" includes one or more contiguous buildings or an area of contiguous row houses the elected resident councils of which approve the establishment of a resident management corporation and otherwise meet the requirements of this section.

(b) PROGRAM REQUIREMENTS.—

(1) RESIDENT COUNCIL.—As a condition of entering into a resident opportunity program, the elected resident council of a public housing development shall approve the establishment of a resident management corporation that complies with the requirements of section 234(b)(2). When such approval is made by the elected resident council of a building or row house area, the resident opportunity program shall not interfere with the rights of other families residing in the development or harm the efficient operation of the development. The resident management corporation and the resident council may be the same organization, if the organization complies with the requirements applicable to both the corporation and council.

(2) PUBLIC HOUSING MANAGEMENT SPECIALIST.—The resident council of a public housing development, in cooperation with the local housing and management authority, shall select a qualified public housing management specialist to assist in determining the feasibility of, and to help establish, a resident management corporation and to provide training and other duties agreed to in the daily operations of the development.

(3) MANAGEMENT RESPONSIBILITIES.—A resident management corporation that qualifies under this section, and that supplies insurance and bonding or equivalent protection sufficient to the Secretary and the local housing and management authority, shall enter into a contract with the authority establishing the respective management rights and responsibilities of the corporation and the authority. The contract shall be treated as a contracting out of services and shall be subject to the requirements under section 234 for such contracts.

(4) ANNUAL AUDIT.—The books and records of a resident management corporation operating a public housing development shall be audited annually by a certified public accountant. A written report of each such audit shall be forwarded to the local housing and management authority and the Secretary.

(c) COMPREHENSIVE IMPROVEMENT ASSISTANCE.—Public housing developments managed by resident management corporations may be provided with modernization assistance from grant amounts under this title for purposes of renovating such developments. If such renovation activities (including the planning and architectural design of the rehabilitation) are administered by a resident management corporation, the local housing and management authority involved may not retain, for any administrative or other reason, any portion of the assistance provided pursuant to this subsection unless otherwise provided by contract.

(d) WAIVER OF FEDERAL REQUIREMENTS.—

(1) WAIVER OF REGULATORY REQUIREMENTS.—Upon the request of any resident management corporation and local housing and management authority, and after notice and an opportunity to comment is afforded to the affected residents, the Secretary may waive (for both the resident management corporation and the local housing and management authority) any requirement established by the Secretary (and not specified in any statute) that the Secretary determines to unnecessarily increase the costs or restrict the income of a public housing development.

(2) WAIVER TO PERMIT EMPLOYMENT.—Upon the request of any resident management corporation, the Secretary may, subject to applicable collective bargaining agreements, permit residents of such development to volunteer a portion of their labor.

(3) EXCEPTIONS.—The Secretary may not waive under this subsection any requirement with respect to income eligibility for purposes of section 222, rental payments under section 225, tenant or applicant protections, employee organizing rights, or rights of employees under collective bargaining agreements.

(e) OPERATING ASSISTANCE AND DEVELOPMENT INCOME.—

(1) CALCULATION OF OPERATING SUBSIDY.—Subject only to the exception provided in paragraph (3), the grant amounts received under this title by a local housing and management authority used for operating costs under section 203(a)(2) that are allocated to a public housing development managed by a resident management corporation shall not be less than per unit monthly amount of such assistance used by the local housing and management authority in the previous year, as determined on an individual development basis.

(2) CONTRACT REQUIREMENTS.—Any contract for management of a public housing development entered into by a local housing and management authority and a resident management corporation shall specify the amount of income expected to be derived from the development itself (from sources such as rents and charges) and the amount of income funds to be provided to the development from the other sources of income of the authority (such as operating assistance under section 203(a), interest income, administrative fees, and rents).

(f) RESIDENT MANAGEMENT TECHNICAL ASSISTANCE AND TRAINING.—

(1) FINANCIAL ASSISTANCE.—To the extent budget authority is available under this title, the Secretary shall provide financial assistance to resident management corporations or resident councils that obtain, by contract or otherwise, technical assistance for the development of resident management entities, including the formation of such entities, the development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of public housing developments, and the securing of such support. In addition, the Secretary may provide financial assistance to resident management corporations or resident councils for activities sponsored by resident organizations for economic uplift, such as job training, economic development, security, and other self-sufficiency activities beyond those related to the management of public housing. The Secretary may require resident councils or resident management corporations to utilize local housing and management authorities or other qualified organizations as contract administrators with respect to financial assistance provided under this paragraph.

(2) LIMITATION ON ASSISTANCE.—The financial assistance provided under this subsection with respect to any public housing development may not exceed $100,000.

(3) PROHIBITION.—A resident management corporation or resident council may not, before the award to the corporation or council of a grant amount under this subsection, enter into any contract or other agreement with any entity to provide such entity with amounts from the grant for providing technical assistance or carrying out other activities eligible for assistance with amounts under this subsection. Any such agreement entered into in violation of this paragraph shall be void and unenforceable.

(4) FUNDING.—Of any amounts made available for financial assistance under this title, the Secretary may use to carry out this subsection $15,000,000 for fiscal year 1996.

(5) LIMITATION REGARDING ASSISTANCE UNDER HOPE GRANT PROGRAM.—The Secretary may not provide financial assistance under this subsection to any resident management corporation or resident council with respect to which assistance for the development or formation of such entity is provided under title III of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act).

(6) TECHNICAL ASSISTANCE AND CLEARINGHOUSE.—The Secretary may use up to 10 percent of the amount made available pursuant to paragraph (4)—

(A) to provide technical assistance, directly or by grant or contract, and

(B) to receive, collect, process, assemble, and disseminate information,

in connection with activities under this subsection.

(g) ASSESSMENT AND REPORT BY SECRETARY.—Not later than 3 years after the date of the enactment of the United States Housing Act of 1996, the Secretary shall—

(1) conduct an evaluation and assessment of resident management, and particularly of the effect of resident management on living conditions in public housing; and

(2) submit to the Congress a report setting forth the findings of the Secretary as a result of the evaluation and assessment and including any recommendations the Secretary determines to be appropriate.

(h) APPLICABILITY.—Any management contract between a local housing and management authority and a resident management corporation that is entered into after the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 shall be subject to this section and any regulations issued to carry out this section.

**Subtitle D—Homeownership**

SEC. 251. RESIDENT HOMEOWNERSHIP PROGRAMS.

(a) IN GENERAL.—A local housing and management authority may carry out a homeownership program in accordance with this section and the local housing management plan of the authority to make public housing dwelling units, public housing developments, and other housing projects available for purchase by low-income families. An authority may transfer a unit only pursuant to a homeownership program approved by the Secretary. Notwithstanding section 108, the Secretary may approve a local housing management plan without approving the portion of the plan regarding a homeownership program pursuant to this section.

(b) PARTICIPATING UNITS.—A program under this section may cover any existing public housing dwelling units or projects, and may include

other dwelling units and housing owned, operated, or assisted, or otherwise acquired for use under such program, by the local housing and management authority.

(c) ELIGIBLE PURCHASERS.—

(1) LOW-INCOME REQUIREMENT.—Only low-income families assisted by a local housing and management authority, other low-income families, and entities formed to facilitate such sales by purchasing units for resale to low-income families shall be eligible to purchase housing under a homeownership program under this section.

(2) OTHER REQUIREMENTS.—A local housing and management authority may establish other requirements or limitations for families to purchase housing under a homeownership program under this section, including requirements or limitations regarding employment or participation in employment counseling or training activities, criminal activity, participation in homeownership counseling programs, evidence of regular income, and other requirements. In the case of purchase by an entity for resale to low-income families, the entity shall sell the units to low-income families within 5 years from the date of its acquisition of the units. The entity shall use any net proceeds from the resale and from managing the units, as determined in accordance with guidelines of the Secretary, for housing purposes, such as funding resident organizations and reserves for capital replacements.

(d) FINANCING AND ASSISTANCE.—A homeownership program under this section may provide financing for acquisition of housing by families purchasing under the program or by the local housing and management authority for sale under this program in any manner considered appropriate by the authority (including sale to a resident management corporation).

(e) DOWNPAYMENT REQUIREMENT.—

(1) IN GENERAL.—Each family purchasing housing under a homeownership program under this section shall be required to provide from its own resources a downpayment in connection with any loan for acquisition of the housing, in an amount determined by the local housing and management authority. Except as provided in paragraph (2), the authority shall permit the family to use grant amounts, gifts from relatives, contributions from private sources, and similar amounts as downpayment amounts in such purchase,

(2) DIRECT FAMILY CONTRIBUTION.—In purchasing housing pursuant to this section, each family shall contribute an amount of the downpayment, from resources of the family other than grants, gifts, contributions, or other similar amounts referred to in paragraph (1), that is not less than 1 percent of the purchase price.

(f) OWNERSHIP INTERESTS.—A homeownership program under this section may provide for sale to the purchasing family of any ownership interest that the local housing and management authority considers appropriate under the program, including ownership in fee simple, a condominium interest, an interest in a limited dividend cooperative, a shared appreciation interest with a local housing and management authority providing financing.

(g) RESALE.—

(1) AUTHORITY AND LIMITATION.—A homeownership program under this section shall permit the resale of a dwelling unit purchased under the program by an eligible family, but shall provide such limitations on resale as the authority considers appropriate (whether the family purchases directly from the authority or from another entity) for the authority to recapture—

(A) from any economic gain derived from any such resale occurring during the 5-year period beginning upon purchase of the dwelling unit by the eligible family, a portion of the amount of any financial assistance provided under the program by the authority to the eligible family; and

(B) after the expiration of such 5-year period, only such amounts as are equivalent to the assistance provided under this section by the authority to the purchaser.

(2) CONSIDERATIONS.—The limitations referred to in paragraph (1) may provide for consideration of the aggregate amount of assistance provided under the program to the family, the contribution to equity provided by the purchasing eligible family, the period of time elapsed between purchase under the homeownership program and resale, the reason for resale, any improvements to the property made by the eligible family, any appreciation in the value of the property, and any other factors that the authority considers appropriate.

(h) INAPPLICABILITY OF DISPOSITION REQUIREMENTS.—The provisions of section 261 shall not apply to disposition of public housing dwelling units under a homeownership program under this section, except that any dwelling units sold under such a program shall be treated as public housing dwelling units for purposes of subsections (e) and (f) of section 261.

### Subtitle E—Disposition, Demolition, and Revitalization of Developments

### SEC. 261. REQUIREMENTS FOR DEMOLITION AND DISPOSITION OF DEVELOPMENTS.

(a) AUTHORITY AND FLEXIBILITY.—A local housing and management authority may demolish, dispose of, or demolish and dispose of nonviable or nonmarketable public housing developments of the authority in accordance with this section.

(b) LOCAL HOUSING MANAGEMENT PLAN REQUIREMENT.—A local housing and management authority may take any action to demolish or dispose of a public housing development (or a portion of a development) only if such demolition or disposition complies with the provisions of this section and is in accordance with the local housing management plan for the authority. Notwithstanding section 108, the Secretary may approve a local housing management plan without approving the portion of the plan covering demolition or disposition pursuant to this section.

(c) PURPOSE OF DEMOLITION OR DISPOSITION.—A local housing and management authority may demolish or dispose of a public housing development (or portion of a development) only if the authority provides sufficient evidence to the Secretary that—

(1) the development (or portion thereof) is severely distressed or obsolete;

(2) the development (or portion thereof) is in a location making it unsuitable for housing purposes;

(3) the development (or portion thereof) has design or construction deficiencies that make cost-effective rehabilitation infeasible;

(4) assuming that reasonable rehabilitation and management intervention for the development has been completed and paid for, the anticipated revenue that would be derived from charging market-based rents for units in the development (or portion thereof) would not cover the anticipated operating costs and replacement reserves of the development (or portion) at full occupancy and the development (or portion) would constitute a substantial burden on the resources of the local housing and management authority;

(5) retention of the development (or portion thereof) is not in the best interests of the residents of the local housing and management authority because—

(A) developmental changes in the area surrounding the development adversely affect the health or safety of the residents or the feasible operation of the development by the local housing and management authority;

(B) demolition or disposition will allow the acquisition, development, or rehabilitation of other properties which will be more efficiently or effectively operated as low-income housing; or

(C) other factors exist that the authority determines are consistent with the best interests of the residents and the authority and not inconsistent with other provisions of this Act;

(6) in the case only of demolition or disposition of a portion of a development, the demolition or disposition will help to ensure the remaining useful life of the remainder of the development; or

(7) in the case only of property other than dwelling units—

(A) the property is excess to the needs of a development; or

(B) the demolition or disposition is incidental to, or does not interfere with, continued operation of a development.

(d) CONSULTATION.—A local housing and management authority may demolish or dispose of a public housing development (or portion of a development) only if the authority notifies and confers regarding the demolition or disposition with—

(1) the residents of the development (or portion); and

(2) appropriate local government officials.

(e) USE OF PROCEEDS.—Any net proceeds from the disposition of a public housing development (or portion of a development) shall be used for—

(1) housing assistance for low-income families that is consistent with the low-income housing needs of the community, through acquisition, development, or rehabilitation of, or homeownership programs for, other low-income housing or the provision of choice-based assistance under title III for such families;

(2) supportive services relating to job training or child care for residents of a development or developments; or

(3) leveraging amounts for securing commercial enterprises, on-site in public housing developments of the local housing and management authority, appropriate to serve the needs of the residents.

(f) RELOCATION.—A local housing and management authority that demolishes or disposes of a public housing development (or portion of a development thereof) shall ensure that—

(1) each family that is a resident of the development (or portion) that is demolished or disposed of is relocated to other safe, clean, healthy, and affordable housing, which is, to the maximum extent practicable, housing of the family's choice or is provided with choice-based assistance under title III;

(2) the local housing and management authority does not take any action to dispose of any unit until any resident to be displaced is relocated in accordance with paragraph (1); and

(3) each resident family to be displaced is paid reiccation expenses, and the rent to be paid initially by the resident following relocation does not exceed the amount permitted under section 225(a).

(g) RIGHT OF FIRST REFUSAL FOR RESIDENT ORGANIZATIONS AND RESIDENT MANAGEMENT CORPORATIONS.—

(1) IN GENERAL.—A local housing and management authority may not dispose of a public housing development (or portion of a development) unless the authority has, before such disposition, offered to sell the property, as provided in this subsection, to each resident organization and resident management corporation operating at the development for continued use as low-income housing, and no such organization or corporation purchases the property pursuant to such offer. A resident organization may act, for purposes of this subsection, through an entity formed to facilitate homeownership under subtitle D.

(2) TIMING.—Disposition of a development (or portion thereof) under this section may not take place—

(A) before the expiration of the period during which any such organization or corporation may notify the authority of interest in purchasing the property, which shall be the 30-day period beginning on the date that the authority first provides notice of the proposed disposition of the property to such resident organizations and resident management corporations;

(B) if an organization or corporation submits notice of interest in accordance with subparagraph (A), before the expiration of the period during which such organization or corporation may obtain a commitment for financing to purchase the property, which shall be the 60-day period beginning upon the submission to the authority of the notice of interest; or

(C) if, during the period under subparagraph (B), an organization or corporation obtains such financing commitment and makes a bona fide offer to the authority to purchase the property for a price equal to or exceeding the applicable offer price under paragraph (3).

The authority shall sell the property pursuant to any purchase offer described in subparagraph (C).

(3) TERMS OF OFFER.—An offer by a local housing and management authority to sell a property in accordance with this subsection shall involve a purchase price that reflects the market value of the property, the reason for the sale, the impact of the sale on the surrounding community, and any other factors that the authority considers appropriate.

(h) INFORMATION FOR LOCAL HOUSING MANAGEMENT PLAN.—A local housing and management authority may demolish or dispose of a public housing development (or portion thereof) only if it includes in the applicable local housing management plan information sufficient to describe—

(1) the housing to be demolished or disposed of;

(2) the purpose of the demolition or disposition under subsection (c) and why the demolition or disposition complies with the requirements under subsection (c);

(3) how the consultations required under subsection (d) will be made;

(4) how the net proceeds of the disposition will be used in accordance with subsection (e);

(5) how the authority will relocate residents, if necessary, as required under subsection (f); and

(6) that the authority has offered the property for acquisition by resident organizations and resident management corporations in accordance with subsection (g).

(i) SITE AND NEIGHBORHOOD STANDARDS EXEMPTION.—Notwithstanding any other provision of law, a local housing and management authority may provide for development of public housing dwelling units on the same site or in the same neighborhood as any dwelling units demolished, pursuant to a plan under this section, but only if such development provides for significantly fewer dwelling units.

(j) TREATMENT OF REPLACEMENT UNITS.—In connection with any demolition or disposition of public housing under this section, a local housing and management authority may provide for other housing assistance for low-income families that is consistent with the low-income housing needs of the community, including—

(1) the provision of choice-based assistance under title III; and

(2) the development, acquisition, or lease by the authority of dwelling units, which dwelling units shall—

(A) be eligible to receive assistance with grant amounts provided under this title; and

(B) be made available for occupancy, operated, and managed in the manner required for public housing, and subject to the other requirements applicable to public housing dwelling units.

(k) PERMISSIBLE RELOCATION WITHOUT PLAN.—If a local housing and management authority determines that public housing dwelling units are not clean, safe, and healthy or cannot be maintained cost-effectively in a clean, safe, and healthy condition, the local housing and management authority may relocate residents of such dwelling units before the submission of a local housing management plan providing for demolition or disposition of such units.

(l) CONSOLIDATION OF OCCUPANCY WITHIN OR AMONG BUILDINGS.—Nothing in this section may be construed to prevent a local housing and management authority from consolidating occupancy within or among buildings of a public housing development, or among developments, or with other housing for the purpose of improving living conditions of, or providing more efficient services to, residents.

(m) DE MINIMIS EXCEPTION TO DEMOLITION REQUIREMENTS.—Notwithstanding any other provision of this section, in any 5-year period a local housing and management authority may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned and operated by the local housing and management authority, without providing for such demolition in a local housing management plan, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents or the demolished unit was beyond repair.

**SEC. 262. DEMOLITION, SITE REVITALIZATION, REPLACEMENT HOUSING, AND CHOICE-BASED ASSISTANCE GRANTS FOR DEVELOPMENTS.**

(a) PURPOSES.—The purpose of this section is to provide assistance to local housing and management authorities for the purposes of—

(1) reducing the density and improving the living environment for public housing residents of severely distressed public housing developments through the demolition of obsolete public housing developments (or portions thereof);

(2) revitalizing sites (including remaining public housing dwelling units) on which such public housing developments are located and contributing to the improvement of the surrounding neighborhood; and

(3) providing housing that will avoid or decrease the concentration of very low-income families; and

(4) providing choice-based assistance in accordance with title III for the purpose of providing replacement housing and assisting residents to be displaced by the demolition.

(b) GRANT AUTHORITY.—The Secretary may make grants available to local housing and management authorities as provided in this section.

(c) CONTRIBUTION REQUIREMENT.—The Secretary may not make any grant under this section to any applicant unless the applicant certifies to the Secretary that the applicant will supplement the amount of assistance provided under this section with an amount of funds from sources other than this section equal to not less than 5 percent of the amount provided under this section, including amounts from other Federal sources, any State or local government sources, any private contributions, and the value of any in-kind services or administrative costs provided.

(d) ELIGIBLE ACTIVITIES.—Grants under this section may be used for activities to carry out revitalization programs for severely distressed public housing, including—

(1) architectural and engineering work, including the redesign, reconstruction, or redevelopment of a severely distressed public housing development, including the site on which the development is located;

(2) the demolition, sale, or lease of the site, in whole or in part;

(3) covering the administrative costs of the applicant, which may not exceed such portion of the assistance provided under this section as the Secretary may prescribe;

(4) payment of reasonable legal fees;

(5) providing reasonable moving expenses for residents displaced as a result of the revitalization of the development;

(6) economic development activities that promote the economic self-sufficiency of residents under the revitalization program;

(7) necessary management improvements;

(8) leveraging other resources, including additional housing resources, retail supportive services, jobs, and other economic development uses on or near the development that will benefit future residents of the site;

(9) replacement housing and housing assistance under title III;

(10) transitional security activities; and

(11) necessary supportive services, except that not more than 10 percent of the amount of any grant may be used for activities under this paragraph.

(e) APPLICATION AND SELECTION.—

(1) APPLICATION.—An application for a grant under this section shall contain such information and shall be submitted at such time and in accordance with such procedures, as the Secretary shall prescribe.

(2) SELECTION CRITERIA.—The Secretary shall establish selection criteria for the award of grants under this section, which shall include—

(A) the relationship of the grant to the local housing management plan for the local housing and management authority and how the grant will result in a revitalized site that will enhance the neighborhood in which the development is located;

(B) the capability and record of the applicant local housing and management authority, or any alternative management agency for the authority, for managing large-scale redevelopment or modernization projects, meeting construction timetables, and obligating amounts in a timely manner;

(C) the extent to which the local housing and management authority could undertake such activities without a grant under this section;

(D) the extent of involvement of residents, State and local governments, private service providers, financing entities, and developers, in the development of a revitalization program for the development; and

(E) the amount of funds and other resources to be leveraged by the grant.

The Secretary shall give preference in selection to any local housing and management authority that has been awarded a planning grant under section 24(c) of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act).

(f) COST LIMITS.—Subject to the provisions of this section, the Secretary—

(1) shall establish cost limits on eligible activities under this section sufficient to provide for effective revitalization programs; and

(2) may establish other cost limits on eligible activities under this section.

(h) DEMOLITION AND REPLACEMENT.—Any severely distressed public housing demolished or disposed of pursuant to a revitalization plan and any public housing produced in lieu of such severely distressed housing, shall be subject to the provisions of section 261.

(i) ADMINISTRATION BY OTHER ENTITIES.—The Secretary may require a grantee under this section to make arrangements satisfactory to the Secretary for use of an entity other than the local housing and management authority to carry out activities assisted under the revitalization plan, if the Secretary determines that such

action will help to effectuate the purposes of this section.

(j) WITHDRAWAL OF FUNDING.—If a grantee under this section does not proceed expeditiously, in the determination of the Secretary, the Secretary shall withdraw any grant amounts under this section that have not been obligated by the local housing and management authority. The Secretary shall redistribute any withdrawn amounts to one or more local housing and management authorities eligible for assistance under this section or to one or more other entities capable of proceeding expeditiously in the same locality in carrying out the revitalization plan of the original grantee.

(k) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) APPLICANT.—The term "applicant" means—

(A) any local housing and management authority that is not designated as troubled or dysfunctional pursuant to section 431(a)(2);

(B) any local housing and management authority or private housing management agent selected, or receiver appointed pursuant, to section 438; and

(C) any local housing and management authority that is designated as troubled pursuant to section 431(a)(2)(D) that—

(i) is so designated principally for reasons that will not affect the capacity of the authority to carry out a revitalization program;

(ii) is making substantial progress toward eliminating the deficiencies of the authority; or

(iii) is otherwise determined by the Secretary to be capable of carrying out a revitalization program.

(2) PRIVATE NONPROFIT CORPORATION.—The term "private nonprofit organization" means any private nonprofit organization (including a State or locally chartered nonprofit organization) that—

(A) is incorporated under State or local law;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(C) complies with standards of financial accountability acceptable to the Secretary; and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to very low-income families.

(3) SEVERELY DISTRESSED PUBLIC HOUSING.—The term "severely distressed public housing" means a public housing development (or building in a development)—

(A) that requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the development;

(B) is a significant contributing factor to the physical decline of and disinvestment by public and private entities in the surrounding neighborhood;

(C)(i) is occupied predominantly by families who are very low-income families with children, are unemployed, and dependent on various forms of public assistance; and

(ii) has high rates of vandalism and criminal activity (including drug-related criminal activity) in comparison to other housing in the area;

(D) cannot be revitalized through assistance under other programs, such as the public housing block grant program under this title, or the programs under sections 9 and 14 of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act), because of cost constraints and inadequacy of available amounts; and

(E) in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the development of which the building is part to make use of the building feasible for purposes of this section.

(4) SUPPORTIVE SERVICES.—The term "supportive services" includes all activities that will promote upward mobility, self-sufficiency, and improved quality of life for the residents of the public housing development involved, including literacy training, job training, day care, and economic development activities.

(l) ANNUAL REPORT.—The Secretary shall submit to the Congress an annual report setting forth—

(1) the number, type, and cost of public housing units revitalized pursuant to this section;

(2) the status of developments identified as severely distressed public housing;

(3) the amount and type of financial assistance provided under and in conjunction with this section; and

(4) the recommendations of the Secretary for statutory and regulatory improvements to the program established by this section.

(m) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section $480,000,000 for each of fiscal years 1996, 1997, and 1998.

(2) TECHNICAL ASSISTANCE.—Of the amount appropriated pursuant to paragraph (1) for any fiscal year, the Secretary may use not more than 0.50 percent for technical assistance. Such assistance may be provided directly or indirectly by grants, contracts, or cooperative agreements, and shall include training, and the cost of necessary travel for participants in such training, by or to officials of the Department of Housing and Urban Development, of local housing and management authorities, and of residents.

(n) SUNSET.—No assistance may be provided under this section after September 30, 1998.

**SEC. 263. VOLUNTARY VOUCHER SYSTEM FOR PUBLIC HOUSING.**

(a) IN GENERAL.—A local housing and management authority may convert any public housing development (or portion thereof) owned and operated by the authority to a system of choice-based rental housing assistance under title III, in accordance with this section.

(b) ASSESSMENT AND PLAN REQUIREMENT.—In converting under this section to a choice-based rental housing assistance system, the local housing and management authority shall develop a conversion assessment and plan under this subsection, in consultation with the appropriate public officials and with significant participation by the residents of the development (or portion thereof), which assessment and plan shall—

(1) be consistent with and part of the local housing management plan for the authority;

(2) describe the conversion and future use or disposition of the public housing development, including an impact analysis on the affected community;

(3) include a cost analysis that demonstrates whether or not the cost (both on a net present value basis and in terms of new budget authority requirements) of providing choice-based rental housing assistance under title III for the same families in substantially similar dwellings over the same period of time is less expensive than continuing public housing assistance in the public housing development proposed for conversion for the remaining useful life of the development; and

(4) identify the actions, if any, that the local housing and management authority will take with regard to converting any public housing development or developments (or portions thereof) of the authority to a system of choice-based rental housing assistance under title III.

(c) STREAMLINED ASSESSMENT AND PLAN.—At the discretion of the Secretary or at the request of a local housing and management authority, the Secretary may waive any or all of the requirements of subsection (b) or otherwise require a streamlined assessment with respect to any public housing development or class of public housing developments.

(d) IMPLEMENTATION OF CONVERSION PLAN.—

(1) IN GENERAL.—A local housing and management authority may implement a conversion plan only if the conversion assessment under this section demonstrates that the conversion—

(A) will not be more expensive than continuing to operate the public housing development (or portion thereof) as public housing; and

(B) will principally benefit the residents of the public housing development (or portion thereof) to be converted, the local housing and management authority, and the community.

(2) DISAPPROVAL.—The Secretary shall disapprove a conversion plan only if the plan is plainly inconsistent with the conversion assessment under subsection (b) or there is reliable information and data available to the Secretary that contradicts that conversion assessment.

(e) OTHER REQUIREMENTS.—To the extent approved by the Secretary, the funds used by the local housing and management authority to provide choice-based rental housing assistance under title III shall be added to the housing assistance payment contract administered by the local housing and management authority or any entity administering the contract on behalf of the local housing and management authority.

(f) SAVINGS PROVISION.—This section does not affect any contract or other agreement entered into under section 22 of the United States Housing Act of 1937 (as such section existed immediately before the enactment of this Act).

***Subtitle F—General Provisions***

**SEC. 271. CONVERSION TO BLOCK GRANT ASSISTANCE.**

(a) SAVINGS PROVISIONS.—Any amounts made available to a public housing agency for assistance for public housing pursuant to the United States Housing Act of 1937 (or any other provision of law relating to assistance for public housing) under an appropriation for fiscal year 1996 or any previous fiscal year shall be subject to the provisions of such Act as in effect before the enactment of this Act, notwithstanding the repeals made by this Act, except to the extent the Secretary provides otherwise to provide for the conversion of public housing and public housing assistance to the system provided under this Act.

(b) MODIFICATIONS.—Notwithstanding any provision of this Act or any annual contributions contract or other agreement entered into by the Secretary and a public housing agency pursuant to the provisions of the United States Housing Act of 1937 (as in effect before the enactment of this Act), the Secretary and the agency may by mutual consent amend, supersede, modify any such agreement as appropriate to provide for assistance under this title, except that the Secretary and the agency may not consent to any such amendment, supersession, or modification that substantially alters any outstanding obligations requiring continued maintenance of the low-income character of any public housing development and any such amendment, supersession, or modification shall not be given effect.

**SEC. 272. PAYMENT OF NON-FEDERAL SHARE.**

Rental or use-value of buildings or facilities paid for, in whole or in part, from production, modernization, or operation costs financed under this title may be used as the non-Federal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment, and other services to the residents in a project assisted under this title.