

**SENATE—Friday, October 16, 1998***(Legislative day of Friday, October 2, 1988)*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

**PRAYER**

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, You have been faithful to help us when we have asked for Your guidance and strength. May we be as quick to praise You for what You have done to answer our prayers as we are to ask You to bless us in the future. We have come to You in crises and difficulties and uncertainties; and You have been on time and in time in Your interventions. Thank You for Your providential care in the development and now the last steps in the completion of the omnibus appropriations bill. We ask You, Gracious God, to guide and direct each step of the way in these last and final days.

We thank You that we are responsible to You and, therefore, accountable to You. You are Sovereign of this Nation, and we seek to know and do Your will. Remind us of the implications of Your righteousness and justice in all things. We consecrate ourselves with renewed dedication to You and to this great Nation we serve. Through our Lord and Saviour. Amen.

**RECOGNITION OF THE ACTING MAJORITY LEADER**

The PRESIDENT pro tempore. The able acting majority leader, Senator JEFFORDS, is recognized.

**SCHEDULE**

Mr. JEFFORDS. Mr. President, this morning the Senate will begin a period of morning business until 11 a.m. Following morning business, the Senate will recess until 1 p.m., when it is expected that the House will send over another temporary continuing resolution. After the CR is agreed to, the Senate is expected to recess until Monday, October 19, to await action by the House of Representatives on the omnibus appropriations bill. The House leadership has indicated a final vote on the omnibus bill may occur on Monday or Tuesday. All Senators will be notified of the voting schedule as soon as it becomes available.

I thank my colleagues for their attention.

Mr. President, I see no one seeking recognition, so I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

**MORNING BUSINESS**

The PRESIDING OFFICER. Under the previous order, there will now be a period of morning business until 11 a.m.

The distinguished Senator from Vermont is recognized.

**MEDICARE HOME HEALTH FAIR PAYMENT ACT OF 1998**

Mr. JEFFORDS. Mr. President, I am pleased to report to my colleagues that yesterday afternoon a tentative agreement on home health care was reached by negotiators from the House and the Senate. This agreement will throw a much needed lifeline to our Nation's senior citizens who rely on home health care to provide much needed health services within the surroundings of their homes.

Home health care is the cornerstone of the health care safety net for senior citizens. It spares them the dislocation of moving to a hospital or nursing home, and it spares the taxpayers from paying for such costly services when they are not really needed.

The administration has implemented reductions in home health care services that treat every agency exactly the same, regardless of whether the agency is efficient or wasteful. The result is that the most efficient agencies are being hit with cuts they cannot absorb. Vulnerable senior citizens in my State are on the brink—on the brink—of losing their vital services.

Under the proposal, payments to the older, low-cost home health agencies will be increased and an additional 15 percent across-the-board cut scheduled for next fall will be delayed for 6 months. That is the time when they say the proposed payments which will get us out of this mess will be available. Adoption of this bill will give home health agencies needed financial relief until a new prospective payment system is in place.

All we need now is for the administration to also agree to help our senior citizens who rely on home health care, as was wrapped into the omnibus bill

yesterday. I call upon the President in the strongest way I possibly can to join us in saving hundreds and thousands of home health care services from being forced to cut back on critical services.

Today is a day of political spinning. The media will examine who won and who lost, what provisions are in and what provisions are out. We must take that time to make things right for senior citizens who need our help.

Over the last 8 months, I have been working as hard as I know how to find a solution for the crisis faced by our home health care agencies in Vermont. Our 13 home health agencies are model agencies that provide high-quality, comprehensive home health care with a low price tag. However, under Medicare's new interim payment system, the payments to the agency are so low that Vermont seniors may be denied access to needed home health services. They are the lowest cost in the whole United States.

For the past 7 years, the average Medicare expenditures for home health care in Vermont have been the lowest in the Nation. However, rather than being rewarded for this cost-effective system, Vermont has been penalized by the implementation of the current interim payment system. In June 1998, Vermont's home health agencies projected the statewide impact of their current interim payment system was a loss of over \$4.5 million in Medicare revenues for the first year. These are nonprofit agencies in our little State. This represents a loss of over 11 percent on an annual base of \$40 million statewide.

Vermont is a good example of how the health care system can work to provide for high-quality care for Medicare beneficiaries. Home health agencies are a critical link in the kind of health system that extends care over a continuum of options and settings. New technology and advances in medical practice permit hospitals to discharge patients earlier. They give persons suffering with acute or chronic illness the opportunity to receive care and live their lives in familiar surroundings. Time and time again, Vermont's home health agencies have proven their value by providing quality, cost-effective services to these patients. Yet, time and time again, Federal policy seems to ensure that their good deeds will go punished.

The home health legislation is the product of a great deal of hard work by the majority leader, Senators ROTH and GRAMM, and Congressmen THOMAS and

BILIRAKIS. I worked with them yesterday before we reached our conclusion. The signing of this bill will mark a victory for our State and also reflect a strong nationwide commitment to high-quality, cost-effective home health agencies such as those in Vermont.

I anguish as I wait today to know what will happen at the White House. I ask the President, call upon him, to make sure that they do not destroy this wonderful work that was accomplished yesterday to save our home health care system.

#### RECESS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now stand in recess until 1 p.m. today.

There being no objection, the Senate, at 10:13 a.m., recessed until 12:59 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GREGG).

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

#### UNANIMOUS CONSENT AGREEMENT—FURTHER CONTINUING APPROPRIATIONS FOR FY 1999

Mr. COCHRAN. Mr. President, I ask unanimous consent that when the Senate receives from the House a continuing resolution, and provided the language is identical to H.J. Res. 135, except for the date of Tuesday, October 20, at 12 midnight, it be considered agreed to and the motion to reconsider be laid upon the table.

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

The resolution (H.J. Res. 136) was passed.

#### PRINTING OF A SENATE DOCUMENT

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 310, submitted earlier by Senators HELMS and BIDEN.

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

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 310) authorizing printing of background information on the Committee on Foreign Relations as a Senate document.

There being no objection, the Senate proceeded to consider the resolution.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 310) was agreed to, as follows:

#### S. RES. 310

Resolved,

#### SECTION 1. PRINTING OF BACKGROUND INFORMATION RELATING TO THE HISTORY OF THE UNITED STATES SENATE COMMITTEE ON FOREIGN RELATIONS.

The Public Printer shall print—

(1) as a Senate document a compilation of materials, with illustrations, entitled "Background Information on the Committee on Foreign Relations, United States Senate (7th Revised Edition),

(2) in addition to the usual number, there shall be printed 500 copies of the document for the use of the committee, and

(3) the cost for printing this document shall not exceed \$5,825.00.

#### NATIVE HAWAIIAN HOUSING ASSISTANCE ACT OF 1998

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 713, S. 109.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 109) to provide Federal housing assistance to Native Hawaiians.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Native American Housing Assistance and Self-Determination Amendments of 1998".*

#### SEC. 2. FINDINGS.

*Congress finds that—*

(1) the United States has undertaken a responsibility to promote the general welfare of the United States by—

(A) employing its resources to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income; and

(B) developing effective partnerships with governmental and private entities to accomplish the objectives referred to in subparagraph (A);

(2) pursuant to the provisions of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), the United States set aside 200,000 acres of land in the Federal territory that later became the State of Hawaii in order to establish a homeland for the native people of Hawaii—Native Hawaiians;

(3) despite the intent of Congress in 1920 to address the housing needs of Native Hawaiians through the enactment of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), some agencies of the Federal Government have taken the legal position that subsequently enacted Federal housing laws designed to address the housing needs of all eligible families in the United States could not be extended to address the needs for housing and infrastructure development on Hawaiian home lands (as that term is defined in section 801 of the Native American Housing Assistance and Self-Determination Act of 1996, as added by section 3 of this Act) with the result that otherwise eligible Native Hawaiians residing on the Hawaiian home lands have been foreclosed from participating in Federal housing assistance programs available to all other eligible families in the United States;

(4) although Federal housing assistance programs have been administered on a racially neutral basis in the State of Hawaii, Native Hawaiians continue to have the greatest unmet need for housing and the highest rates of overcrowding in the United States;

(5) among the Native American population of the United States, Native Hawaiians experience the highest percentage of housing problems in the United States, as the percentage—

(A) of housing problems in the Native Hawaiian population is 49 percent, as compared to—

(i) 44 percent for American Indian and Alaska Native households in Indian country; and

(ii) 27 percent for all other households in the United States; and

(B) overcrowding in the Native Hawaiian population is 36 percent as compared to 3 percent for all other households in the United States;

(6) among the Native Hawaiian population, the needs of Native Hawaiians, as that term is defined in section 801 of the Native American Housing Assistance and Self-Determination Act of 1996, as added by section 3 of this Act, eligible to reside on the Hawaiian Home Lands are the most severe, as—

(A) the percentage of overcrowding in Native Hawaiian households on the Hawaiian Home Lands is 36 percent; and

(B) approximately 13,000 Native Hawaiians, which constitute 95 percent of the Native Hawaiians who are eligible to reside on the Hawaiian Home Lands, are in need of housing;

(7) applying the Department of Housing and Urban Development guidelines—

(A) 70.8 percent of Native Hawaiians who either reside or who are eligible to reside on the Hawaiian Home Lands have incomes that fall below the median family income; and

(B) 50 percent of Native Hawaiians who either reside or who are eligible to reside on the Hawaiian Home Lands have incomes below 30 percent of the median family income; and

(8) 1/3 of those Native Hawaiians who are eligible to reside on the Hawaiian Home Lands pay more than 30 percent of their income for shelter, and 1/2 of those Native Hawaiians face overcrowding;

(9) the extraordinarily severe housing needs of Native Hawaiians demonstrate that Native Hawaiians who either reside on, or are eligible to reside on, Hawaiian Home Lands have been denied equal access to Federal low-income housing assistance programs available to other qualified residents of the United States, and that a more effective means of addressing their housing needs must be authorized;

(10) consistent with the recommendations of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing, and in order to address the continuing prevalence of extraordinarily severe housing needs among Native Hawaiians who either reside or are eligible to reside on the Hawaiian Home Lands, Congress finds it necessary to extend the Federal low-income housing assistance available to American Indians and Alaska Natives under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) to those Native Hawaiians;

(11) under the treaty-making power of the United States, Congress had the authority to confirm a treaty between the United States and the government that represented the Hawaiian people, and under clause 3 of section 8 of article I of the Constitution, the authority of Congress to address matters affecting the indigenous peoples of the United States includes the authority to address matters affecting Native Hawaiians;

(12) through treaties, Federal statutes, and rulings of the Federal courts, the United States has recognized and reaffirmed that—

(A) the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives; and

(B) the aboriginal, indigenous people of the United States have—

(i) a continuing right to autonomy in their internal affairs; and

(ii) an ongoing right of self-determination and self-governance that has never been extinguished;

(13) the political relationship between the United States and the Native Hawaiian people has been recognized and reaffirmed by the United States as evidenced by the inclusion of Native Hawaiians in—

(A) the Native American Programs Act of 1974 (42 U.S.C. 2291 et seq.);

(B) the American Indian Religious Freedom Act (42 U.S.C. 1996 et seq.);

(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);

(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(E) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(F) the Native American Languages Act of 1992 (106 Stat. 3434);

(G) the American Indian, Alaska Native and Native Hawaiian Culture and Arts Development Act (20 U.S.C. 4401 et seq.);

(H) the Job Training Partnership Act (29 U.S.C. 1501 et seq.); and

(I) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); and

(14) in the area of housing, the United States has recognized and reaffirmed the political relationship with the Native Hawaiian people through—

(A) the enactment of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), which set aside approximately 200,000 acres of public lands that became known as Hawaiian Home Lands in the Territory of Hawaii that had been ceded to the United States for homesteading by Native Hawaiians in order to rehabilitate a landless and dying people;

(B) the enactment of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4)—

(i) by ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held in public trust, for the betterment of the conditions of Native Hawaiians, as that term is defined in section 801(15) of the Native American Housing Assistance and Self-Determination Act of 1996, as added by section 3 of this Act; and

(ii) by transferring what the United States considered to be a trust responsibility for the administration of Hawaiian Home Lands to the State of Hawaii, but retaining the authority to enforce the trust, including the exclusive right of the United States to consent to any actions affecting the lands which comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), enacted by the legislature of the State of Hawaii affecting the rights of beneficiaries under the Act;

(C) the authorization of mortgage loans insured by the Federal Housing Administration for the purchase, construction, or refinancing of homes on Hawaiian Home Lands under the Act of June 27, 1934 (commonly referred to as the "National Housing Act" (42 Stat. 1246 et seq., chapter 847; 12 U.S.C. 1701 et seq.));

(D) authorizing Native Hawaiian representation on the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing under Public Law 101-235;

(E) the inclusion of Native Hawaiians in the definition under section 3764 of title 38, United States Code, applicable to subchapter V of chapter 37 of title 38, United States Code (relating to a housing loan program for Native American veterans); and

(F) the enactment of the Hawaiian Home Lands Recovery Act (109 Stat. 357; 48 U.S.C. 491, note prec.) which establishes a process for the conveyance of Federal lands to the Department of Hawaiian Home Lands that are equivalent in value to lands acquired by the United States from the Hawaiian Home Lands inventory.

**SEC. 3. HOUSING ASSISTANCE.**

The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) is amended by adding at the end the following:

**"TITLE VIII—HOUSING ASSISTANCE FOR NATIVE HAWAIIANS**

**"SEC. 801. DEFINITIONS.**

"In this title:

"(1) **DEPARTMENT OF HAWAIIAN HOME LANDS; DEPARTMENT.**—The term 'Department of Hawaiian Home Lands' or 'Department' means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

"(2) **DIRECTOR.**—The term 'Director' means the Director of the Department of Hawaiian Home Lands.

"(3) **ELDERLY FAMILIES; NEAR-ELDERLY FAMILIES.**—

"(A) **IN GENERAL.**—The term 'elderly family' or 'near-elderly family' means a family whose head (or his or her spouse), or whose sole member, is—

"(i) for an elderly family, an elderly person; or

"(ii) for a near-elderly family, a near-elderly person.

"(B) **CERTAIN FAMILIES INCLUDED.**—The term 'elderly family' or 'near-elderly family' includes—

"(i) 2 or more elderly persons or near-elderly persons, as the case may be, living together; and

"(ii) 1 or more persons described in clause (i) living with 1 or more persons determined under the housing plan to be essential to their care or well-being.

"(4) **HAWAIIAN HOME LANDS.**—The term 'Hawaiian Home Lands' means lands that—

"(A) have the status as Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act (42 Stat. 110); or

"(B) are acquired pursuant to that Act.

"(5) **HOUSING AREA.**—The term 'housing area' means an area of Hawaiian Home Lands with respect to which the Department of Hawaiian Home Lands is authorized to provide assistance for affordable housing under this Act.

"(6) **HOUSING ENTITY.**—The term 'housing entity' means the Department of Hawaiian Home Lands.

"(7) **HOUSING PLAN.**—The term 'housing plan' means a plan developed by the Department of Hawaiian Home Lands.

"(8) **MEDIAN INCOME.**—The term 'median income' means, with respect to an area that is a Hawaiian housing area, the greater of—

"(A) the median income for the Hawaiian housing area, which shall be determined by the Secretary; or

"(B) the median income for the State of Hawaii.

"(9) **NATIVE HAWAIIAN.**—The term 'Native Hawaiian' has the meaning given the term 'Native Hawaiian' in section 201 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

**"SEC. 802. BLOCK GRANTS FOR AFFORDABLE HOUSING ACTIVITIES.**

"(a) **GRANT AUTHORITY.**—For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this title) make a grant under this title to the Department of Hawaiian Home Lands to carry out affordable housing activities for Native Hawaiian families on or near Hawaiian Home Lands.

"(b) **PLAN REQUIREMENT.**—

"(1) **IN GENERAL.**—The Secretary may make a grant under this title to the Department of Hawaiian Home Lands for a fiscal year only if—

"(A) the Director has submitted to the Secretary a housing plan for that fiscal year; and

"(B) the Secretary has determined under section 804 that the housing plan complies with the requirements of section 803.

"(2) **WAIVER.**—The Secretary may waive the applicability of the requirements under paragraph (1), in part, if the Secretary finds that the Department of Hawaiian Home Lands has not complied or cannot comply with those requirements due to circumstances beyond the control of the Department of Hawaiian Home Lands.

"(c) **USE OF AFFORDABLE HOUSING ACTIVITIES UNDER PLAN.**—Except as provided in subsection (e), amounts provided under a grant under this section may be used only for affordable housing activities under this title that are consistent with a housing plan approved under section 804.

"(d) **ADMINISTRATIVE EXPENSES.**—

"(1) **IN GENERAL.**—The Secretary shall, by regulation, authorize the Department of Hawaiian Home Lands to use a percentage of any grant amounts received under this title for any reasonable administrative and planning expenses of the Department relating to carrying out this title and activities assisted with those amounts.

"(2) **ADMINISTRATIVE AND PLANNING EXPENSES.**—The administrative and planning expenses referred to in paragraph (1) include—

"(A) costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts provided under this title; and

"(B) expenses incurred in preparing a housing plan under section 803.

"(e) **PUBLIC-PRIVATE PARTNERSHIPS.**—The Director shall make all reasonable efforts, consistent with the purposes of this title, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in implementing a housing plan that has been approved by the Secretary under section 803.

"(f) **APPLICABILITY OF OTHER PROVISIONS.**—

"(1) **IN GENERAL.**—The Secretary shall be guided by the relevant program requirements of titles I, II, and IV in the implementation of housing assistance programs for Native Hawaiians under this title.

"(2) **EXCEPTION.**—The Secretary may make exceptions to, or modifications of, program requirements for Native American housing assistance set forth in titles I, II, and IV as necessary and appropriate to meet the unique situation and housing needs of Native Hawaiians.

**"SEC. 803. HOUSING PLAN.**

"(a) **PLAN SUBMISSION.**—The Secretary shall—

"(1) require the Director to submit a housing plan under this section for each fiscal year; and

"(2) provide for the review of each plan submitted under paragraph (1).

"(b) **5-YEAR PLAN.**—Each housing plan under this section shall—

"(1) be in a form prescribed by the Secretary; and

"(2) contain, with respect to the 5-year period beginning with the fiscal year for which the plan is submitted, the following information:

"(A) **MISSION STATEMENT.**—A general statement of the mission of the Department of Hawaiian Home Lands to serve the needs of the low-income families to be served by the Department.

"(B) **GOAL AND OBJECTIVES.**—A statement of the goals and objectives of the Department of Hawaiian Home Lands to enable the Department to serve the needs identified in subparagraph (A) during the period.

"(C) **ACTIVITIES PLANS.**—An overview of the activities planned during the period including

an analysis of the manner in which the activities will enable the Department to meet its mission, goals, and objectives.

"(c) 1-YEAR PLAN.—A housing plan under this section shall—

"(1) be in a form prescribed by the Secretary; and

"(2) contain the following information relating to the fiscal year for which the assistance under this title is to be made available:

"(A) GOALS AND OBJECTIVES.—A statement of the goals and objectives to be accomplished during the period covered by the plan.

"(B) STATEMENT OF NEEDS.—A statement of the housing needs of the low-income families served by the Department and the means by which those needs will be addressed during the period covered by the plan, including—

"(i) a description of the estimated housing needs and the need for assistance for the low-income families to be served by the Department, including a description of the manner in which the geographical distribution of assistance is consistent with—

"(I) the geographical needs of those families; and

"(II) needs for various categories of housing assistance; and

"(ii) a description of the estimated housing needs for all families to be served by the Department.

"(C) FINANCIAL RESOURCES.—An operating budget for the Department of Hawaiian Home Lands, in a form prescribed by the Secretary, that includes—

"(i) an identification and a description of the financial resources reasonably available to the Department to carry out the purposes of this title, including an explanation of the manner in which amounts made available will be used to leverage additional resources; and

"(ii) the uses to which the resources described in clause (i) will be committed, including—

"(I) eligible and required affordable housing activities; and

"(II) administrative expenses.

"(D) AFFORDABLE HOUSING RESOURCES.—A statement of the affordable housing resources currently available at the time of the submittal of the plan and to be made available during the period covered by the plan, including—

"(i) a description of the significant characteristics of the housing market in the State of Hawaii, including the availability of housing from other public sources, private market housing; and

"(ii) the manner in which the characteristics referred to in clause (i) influence the decision of the Department of Hawaiian Home Lands to use grant amounts to be provided under this title for—

"(I) rental assistance;

"(II) the production of new units;

"(III) the acquisition of existing units; or

"(IV) the rehabilitation of units;

"(iii) a description of the structure, coordination, and means of cooperation between the Department of Hawaiian Home Lands and any other governmental entities in the development, submission, or implementation of housing plans, including a description of—

"(I) the involvement of private, public, and nonprofit organizations and institutions;

"(II) the use of loan guarantees under section 184A of the Housing and Community Development Act of 1992; and

"(III) other housing assistance provided by the United States, including loans, grants, and mortgage insurance;

"(iv) a description of the manner in which the plan will address the needs identified pursuant to subparagraph (C);

"(v) a description of—

"(I) any existing or anticipated homeownership programs and rental programs to be carried out during the period covered by the plan; and

"(II) the requirements and assistance available under the programs referred to in subclause (I);

"(vi) a description of—

"(I) any existing or anticipated housing rehabilitation programs necessary to ensure the long-term viability of the housing to be carried out during the period covered by the plan; and

"(II) the requirements and assistance available under the programs referred to in subclause (I);

"(vii) a description of—

"(I) all other existing or anticipated housing assistance provided by the Department of Hawaiian Home Lands during the period covered by the plan, including—

"(aa) transitional housing;

"(bb) homeless housing;

"(cc) college housing; and

"(dd) supportive services housing; and

"(II) the requirements and assistance available under such programs;

"(viii) (I) a description of any housing to be demolished or disposed of;

"(II) a timetable for that demolition or disposition; and

"(III) any other information required by the Secretary with respect to that demolition or disposition;

"(ix) a description of the manner in which the Department of Hawaiian Home Lands will coordinate with welfare agencies in the State of Hawaii to ensure that residents of the affordable housing will be provided with access to resources to assist in obtaining employment and achieving self-sufficiency;

"(x) a description of the requirements established by the Department of Hawaiian Home Lands to—

"(I) promote the safety of residents of the affordable housing;

"(II) facilitate the undertaking of crime prevention measures;

"(III) allow resident input and involvement, including the establishment of resident organizations; and

"(IV) allow for the coordination of crime prevention activities between the Department and local law enforcement officials; and

"(xi) a description of the entities that will carry out the activities under the plan, including the organizational capacity and key personnel of the entities.

"(E) CERTIFICATION OF COMPLIANCE.—Evidence of compliance that shall include, as appropriate—

"(i) a certification that the Department of Hawaiian Home Lands will comply with—

"(I) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or with title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) in carrying out this title, to the extent that such title is applicable; and

"(II) other applicable Federal statutes;

"(ii) a certification that the Department will require adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this title, in compliance with such requirements as may be established by the Secretary;

"(iii) a certification that policies are in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title;

"(iv) a certification that policies are in effect and are available for review by the Secretary and the public governing rents charged, including the methods by which such rents or homebuyer payments are determined, for housing assisted with grant amounts provided under this title; and

"(v) a certification that policies are in effect and are available for review by the Secretary

and the public governing the management and maintenance of housing assisted with grant amounts provided under this title.

"(d) APPLICABILITY OF CIVIL RIGHTS STATUTES.—

"(1) IN GENERAL.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) apply to assistance provided under this title, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of assistance under this title—

"(A) to the Department of Hawaiian Home Lands on the basis that the Department served Native Hawaiians; or

"(B) to an eligible family on the basis that the family is a Native Hawaiian family.

"(2) CIVIL RIGHTS.—Program eligibility under this title may be restricted to Native Hawaiians. Subject to the preceding sentence, no person may be discriminated against on the basis of race, color, national origin, religion, sex, familial status, or disability.

"(e) USE OF NONPROFIT ORGANIZATIONS.—As a condition of receiving grant amounts under this title, the Department of Hawaiian Home Lands shall, to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

#### "SEC. 804. REVIEW OF PLANS.

"(a) REVIEW AND NOTICE.—

"(1) REVIEW.—

"(A) IN GENERAL.—The Secretary shall conduct a review of a housing plan submitted to the Secretary under section 803 to ensure that the plan complies with the requirements of that section.

"(B) LIMITATION.—The Secretary shall have the discretion to review a plan referred to in subparagraph (A) only to the extent that the Secretary considers that the review is necessary.

"(2) NOTICE.—

"(A) IN GENERAL.—Not later than 60 days after receiving a plan under section 803, the Secretary shall notify the Director of the Department of Hawaiian Home Lands whether the plan complies with the requirements under that section.

"(B) EFFECT OF FAILURE OF SECRETARY TO TAKE ACTION.—For purposes of this title, if the Secretary does not notify the Director, as required under this subsection and subsection (b), upon the expiration of the 60-day period described in subparagraph (A)—

"(i) the plan shall be considered to have been determined to comply with the requirements under section 803; and

"(ii) the Director shall be considered to have been notified of compliance.

"(b) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan submitted under section 803 does not comply with the requirements of that section, the Secretary shall specify in the notice under subsection (a)—

"(1) the reasons for noncompliance; and

"(2) any modifications necessary for the plan to meet the requirements of section 803.

"(c) REVIEW.—

"(1) IN GENERAL.—After the Director of the Department of Hawaiian Home Lands submits a housing plan under section 803, or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make a determination under this subsection, the Secretary shall review the plan (including any amendments or modifications thereto) to determine whether the contents of the plan—

"(A) set forth the information required by section 803 to be contained in the housing plan;

"(B) are consistent with information and data available to the Secretary; and

"(C) are not prohibited by or inconsistent with any provision of this Act or any other applicable law.

"(2) **INCOMPLETE PLANS.**—If the Secretary determines under this subsection that any of the appropriate certifications required under section 803(c)(2)(E) are not included in a plan, the plan shall be considered to be incomplete.

"(d) **UPDATES TO PLAN.**—

"(1) **IN GENERAL.**—Subject to paragraph (2), after a plan under section 803 has been submitted for a fiscal year, the Director of the Department of Hawaiian Home Lands may comply with the provisions of that section for any succeeding fiscal year (with respect to information included for the 5-year period under section 803(b) or for the 1-year period under section 803(c)) by submitting only such information regarding such changes as may be necessary to update the plan previously submitted.

"(2) **COMPLETE PLANS.**—The Director shall submit a complete plan under section 803 not later than 4 years after submitting an initial plan under that section, and not less frequently than every 4 years thereafter.

"(e) **EFFECTIVE DATE.**—This section and section 803 shall take effect on the date provided by the Secretary pursuant to section 807(a) to provide for timely submission and review of the housing plan as necessary for the provision of assistance under this title for fiscal year 2000.

**"SEC. 805. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.**

"(a) **PROGRAM INCOME.**—

"(1) **AUTHORITY TO RETAIN.**—The Department of Hawaiian Home Lands may retain any program income that is realized from any grant amounts received by the Department under this title if—

"(A) that income was realized after the initial disbursement of the grant amounts received by the Department; and

"(B) the Director agrees to use the program income for affordable housing activities in accordance with the provisions of this title.

"(2) **PROHIBITION OF REDUCTION OF GRANT.**—The Secretary may not reduce the grant amount for the Department of Hawaiian Home Lands based solely on—

"(A) whether the Department retains program income under paragraph (1); or

"(B) the amount of any such program income retained.

"(3) **EXCLUSION OF AMOUNTS.**—The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the Department.

"(b) **LABOR STANDARDS.**—

"(1) **IN GENERAL.**—Any contract or agreement for assistance, sale, or lease pursuant to this title shall contain—

"(A) a provision requiring that an amount not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, technicians employed in the development and all maintenance, and laborers and mechanics employed in the operation, of the affordable housing project involved; and

"(B) a provision that an amount not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Act commonly known as the 'Davis-Bacon Act' (46 Stat. 1494, chapter 411; 40 U.S.C. 276a et seq.) shall be paid to all laborers and mechanics

employed in the development of the affordable housing involved.

"(2) **EXCEPTIONS.**—Paragraph (1) and provisions relating to wages required under paragraph (1) in any contract or agreement for assistance, sale, or lease under this title, shall not apply to any individual who performs the services for which the individual volunteered and who is not otherwise employed at any time in the construction work and received no compensation or is paid expenses, reasonable benefits, or a nominal fee for those services.

**"SEC. 806. ENVIRONMENTAL REVIEW.**

"(a) **IN GENERAL.**—

"(1) **RELEASE OF FUNDS.**—

"(A) **IN GENERAL.**—The Secretary may carry out the alternative environmental protection procedures described in subparagraph (B) in order to ensure—

"(i) that the policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of law that further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of grant amounts provided under this title; and

"(ii) to the public undiminished protection of the environment.

"(B) **ALTERNATIVE ENVIRONMENTAL PROTECTION PROCEDURE.**—In lieu of applying environmental protection procedures otherwise applicable, the Secretary may by regulation provide for the release of funds for specific projects to the Department of Hawaiian Home Lands if the Director of the Department assumes all of the responsibilities for environmental review, decision-making, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake those projects as Federal projects.

"(2) **REGULATIONS.**—

"(A) **IN GENERAL.**—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

"(B) **CONTENTS.**—The regulations issued under this paragraph shall—

"(i) provide for the monitoring of the environmental reviews performed under this section;

"(ii) in the discretion of the Secretary, facilitate training for the performance of such reviews; and

"(iii) provide for the suspension or termination of the assumption of responsibilities under this section.

"(3) **EFFECT ON ASSUMED RESPONSIBILITY.**—The duty of the Secretary under paragraph (2)(B) shall not be construed to limit or reduce any responsibility assumed by the Department of Hawaiian Home Lands for grant amounts with respect to any specific release of funds.

"(b) **PROCEDURE.**—

"(1) **IN GENERAL.**—The Secretary shall authorize the release of funds subject to the procedures under this section only if, not less than 15 days before that approval and before any commitment of funds to such projects, the Director of the Department of Hawaiian Home Lands submits to the Secretary a request for such release accompanied by a certification that meets the requirements of subsection (c).

"(2) **EFFECT OF APPROVAL.**—The approval of the Secretary of a certification described in paragraph (1) shall be deemed to satisfy the responsibilities of the Secretary under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and such other provisions of law as the regulations of the Secretary specify to the extent that those responsibilities relate to the release of funds for projects that are covered by that certification.

"(c) **CERTIFICATION.**—A certification under the procedures under this section shall—

"(1) be in a form acceptable to the Secretary;

"(2) be executed by the Director of the Department of Hawaiian Home Lands;

"(3) specify that the Department of Hawaiian Home Lands has fully carried out its responsibilities as described under subsection (a); and

"(4) specify that the Director—

"(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and each provision of law specified in regulations issued by the Secretary to the extent that those laws apply by reason of subsection (a); and

"(B) is authorized and consents on behalf of the Department of Hawaiian Home Lands and the Director accepts the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities of the Director of the Department of Hawaiian Home Lands as such an official.

**"SEC. 807. REGULATIONS.**

"The Secretary shall issue final regulations necessary to carry out this title not later than June 1, 1999.

**"SEC. 808. EFFECTIVE DATE.**

"Except as otherwise expressly provided in this title, this title shall take effect on June 1, 1999.

**"SEC. 809. AFFORDABLE HOUSING ACTIVITIES.**

"(a) **NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.**—

"(1) **PRIMARY OBJECTIVE.**—The national objectives of this title are—

"(A) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments for occupancy by low-income Native Hawaiian families;

"(B) to ensure better access to private mortgage markets and to promote self-sufficiency of low-income Native Hawaiian families;

"(C) to coordinate activities to provide housing for low-income Native Hawaiian families with Federal, State and local activities to further economic and community development;

"(D) to plan for and integrate infrastructure resources on the Hawaiian Home Lands with housing development; and

"(E) to—

"(i) promote the development of private capital markets; and

"(ii) allow the markets referred to in clause (i) to operate and grow, thereby benefiting Native Hawaiian communities.

"(2) **ELIGIBLE FAMILIES.**—

"(A) **IN GENERAL.**—Except as provided under subparagraph (B), assistance for eligible housing activities under this title shall be limited to low-income Native Hawaiian families.

"(B) **EXCEPTION TO LOW-INCOME REQUIREMENT.**—

"(i) **IN GENERAL.**—The Director may provide assistance for homeownership activities under—

"(I) section 810(b);

"(II) model activities under section 810(f); or

"(III) loan guarantee activities under section 184A of the Housing and Community Development Act of 1992 to Native Hawaiian families who are not low-income families, to the extent that the Secretary approves the activities under that section to address a need for housing for those families that cannot be reasonably met without that assistance.

"(ii) **LIMITATIONS.**—The Secretary shall establish limitations on the amount of assistance that may be provided under this title for activities for families that are not low-income families.

"(C) **OTHER FAMILIES.**—Notwithstanding paragraph (1), the Director may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this title to a family that is not composed of Native Hawaiians if—

"(i) the Department determines that the presence of the family in the housing involved is essential to the well-being of Native Hawaiian families; and

"(ii) the need for housing for the family cannot be reasonably met without the assistance.

"(D) PREFERENCE.—

"(i) IN GENERAL.—A housing plan submitted under section 803 may authorize a preference, for housing or housing assistance provided through affordable housing activities assisted with grant amounts provided under this title to be provided, to the extent practicable, to families that are eligible to reside on the Hawaiian Home Lands.

"(ii) APPLICATION.—In any case in which a housing plan provides for preference described in clause (i), the Director shall ensure that housing activities that are assisted with grant amounts under this title are subject to that preference.

"(E) USE OF NONPROFIT ORGANIZATIONS.—As a condition of receiving grant amounts under this title, the Department of Hawaiian Home Lands, shall to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

"SEC. 810. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.

"(a) IN GENERAL.—Affordable housing activities under this section are activities conducted in accordance with the requirements of section 811 to—

"(1) develop or to support affordable housing for rental or homeownership; or

"(2) provide housing services with respect to affordable housing, through the activities described in subsection (b).

"(b) ACTIVITIES.—The activities described in this subsection are the following:

"(1) DEVELOPMENT.—The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include—

"(A) real property acquisition;

"(B) site improvement;

"(C) the development of utilities and utility services;

"(D) conversion;

"(E) demolition;

"(F) financing;

"(G) administration and planning; and

"(H) other related activities.

"(2) HOUSING SERVICES.—The provision of housing-related services for affordable housing, including—

"(A) housing counseling in connection with rental or homeownership assistance;

"(B) the establishment and support of resident organizations and resident management corporations;

"(C) energy auditing;

"(D) activities related to the provision of self-sufficiency and other services; and

"(E) other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in other housing activities assisted pursuant to this section.

"(3) HOUSING MANAGEMENT SERVICES.—The provision of management services for affordable housing, including—

"(A) the preparation of work specifications;

"(B) loan processing;

"(C) inspections;

"(D) tenant selection;

"(E) management of tenant-based rental assistance; and

"(F) management of affordable housing projects.

"(4) CRIME PREVENTION AND SAFETY ACTIVITIES.—The provision of safety, security, and law enforcement measures and activities appropriate

to protect residents of affordable housing from crime.

"(5) MODEL ACTIVITIES.—Housing activities under model programs that are—

"(A) designed to carry out the purposes of this title; and

"(B) specifically approved by the Secretary as appropriate for the purpose referred to in subparagraph (A).

"SEC. 811. PROGRAM REQUIREMENTS.

"(a) RENTS.—

"(1) ESTABLISHMENT.—Subject to paragraph (2), as a condition to receiving grant amounts under this title, the Director shall develop written policies governing rents and homebuyer payments charged for dwelling units assisted under this title, including methods by which such rents and homebuyer payments are determined.

"(2) MAXIMUM RENT.—In the case of any low-income family residing in a dwelling unit assisted with grant amounts under this title, the monthly rent or homebuyer payment (as applicable) for that dwelling unit may not exceed 30 percent of the monthly adjusted income of that family.

"(b) MAINTENANCE AND EFFICIENT OPERATION.—

"(1) IN GENERAL.—The Director shall, using amounts of any grants received under this title, reserve and use for operating under section 810 such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing.

"(2) DISPOSAL OF CERTAIN HOUSING.—This subsection may not be construed to prevent the Director, or any entity funded by the Department, from demolishing or disposing of housing, pursuant to regulations established by the Secretary.

"(c) INSURANCE COVERAGE.—As a condition to receiving grant amounts under this title, the Director shall require adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this title.

"(d) ELIGIBILITY FOR ADMISSION.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

"(e) MANAGEMENT AND MAINTENANCE.—As a condition to receiving grant amounts under this title, the Director shall develop policies governing the management and maintenance of housing assisted with grant amounts under this title.

"SEC. 812. TYPES OF INVESTMENTS.

"(a) IN GENERAL.—Subject to section 811 and an applicable housing plan approved under section 803, the Director shall have—

"(1) the discretion to use grant amounts for affordable housing activities through the use of—

"(A) equity investments;

"(B) interest-bearing loans or advances;

"(C) noninterest-bearing loans or advances;

"(D) interest subsidies;

"(E) the leveraging of private investments; or

"(F) any other form of assistance that the Secretary determines to be consistent with the purposes of this title; and

"(2) the right to establish the terms of assistance provided with funds referred to in paragraph (1).

"(b) INVESTMENTS.—The Director of the Department of Hawaiian Home Lands may invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations, as approved by the Secretary.

"SEC. 813. LOW-INCOME REQUIREMENT AND INCOME TARGETING.

"(a) IN GENERAL.—Housing shall qualify for affordable housing for purposes of this title only if—

"(1) each dwelling unit in the housing—

"(A) in the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of the initial occupancy of that family of that unit; and

"(B) in the case of housing for homeownership, is made available for purchase only by a family that is a low-income family at the time of purchase; and

"(2) each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for—

"(A) the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership; or

"(B) such other period as the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this title, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if that action—

"(i) recognizes any contractual or legal rights of any public agency, nonprofit sponsor, or other person or entity to take an action that would—

"(I) avoid termination of low-income affordability, in the case of foreclosure; or

"(II) transfer ownership in lieu of foreclosure; and

"(ii) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

"(b) EXCEPTION.—Notwithstanding subsection (a), housing assisted pursuant to section 809(a)(2)(B) shall be considered affordable housing for purposes of this title.

"SEC. 814. LEASE REQUIREMENTS AND TENANT SELECTION.

"(a) LEASES.—Except to the extent otherwise provided by or inconsistent with the laws of the State of Hawaii, in renting dwelling units in affordable housing assisted with grant amounts provided under this title, the Director, owner, or manager shall use leases that—

"(1) do not contain unreasonable terms and conditions;

"(2) require the Director, owner, or manager to maintain the housing in compliance with applicable housing codes and quality standards;

"(3) require the Director, owner, or manager to give adequate written notice of termination of the lease, which shall be the period of time required under applicable State or local law;

"(4) specify that, with respect to any notice of eviction or termination, notwithstanding any State or local law, a resident shall be informed of the opportunity, before any hearing or trial, to examine any relevant documents, record, or regulations directly related to the eviction or termination;

"(5) require that the Director, owner, or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or for other good cause; and

"(6) provide that the Director, owner, and manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that—

"(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the Department, owner, or manager;

"(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 the premises.

"(b) TENANT OR HOMEBUYER SELECTION.—As a condition to receiving grant amounts under

this title, the Director shall adopt and use written tenant and homebuyer selection policies and criteria that—

“(1) are consistent with the purpose of providing housing for low-income families;

“(2) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and

“(3) provide for—

“(A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in an applicable housing plan approved under section 803; and

“(B) the prompt notification in writing to any rejected applicant of the grounds for that rejection.

#### “SEC. 815. REPAYMENT.

“If the Department of Hawaiian Home Lands uses grant amounts to provide affordable housing under activities under this title and, at any time during the useful life of the housing, the housing does not comply with the requirement under section 813(a)(2), the Secretary shall—

“(1) reduce future grant payments on behalf of the Department by an amount equal to the grant amounts used for that housing (under the authority of section 818(a)(1)(B)); or

“(2) require repayment to the Secretary of any amount equal to those grant amounts.

#### “SEC. 816. ANNUAL ALLOCATION.

“For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this title for the fiscal year, in accordance with the formula established pursuant to section 817 to the Department of Hawaiian Home Lands if the Department complies with the requirements under this title for a grant under this title.

#### “SEC. 817. ALLOCATION FORMULA.

“(a) ESTABLISHMENT.—The Secretary shall, by regulation issued not later than the expiration of the 6-month period beginning on the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1998, in the manner provided under section 807, establish a formula to provide for the allocation of amounts available for a fiscal year for block grants under this title in accordance with the requirements of this section.

“(b) FACTORS FOR DETERMINATION OF NEED.—The formula under subsection (a) shall be based on factors that reflect the needs for assistance for affordable housing activities, including—

“(1) the number of low-income dwelling units owned or operated at the time pursuant to a contract between the Director and the Secretary;

“(2) the extent of poverty and economic distress and the number of Native Hawaiian families eligible to reside on the Hawaiian Home Lands; and

“(3) any other objectively measurable conditions that the Secretary and the Director may specify.

“(c) OTHER FACTORS FOR CONSIDERATION.—In establishing the formula under subsection (a), the Secretary shall consider the relative administrative capacities of the Department of Hawaiian Home Lands and other challenges faced by the Department, including—

“(1) geographic distribution within Hawaiian Home Lands; and

“(2) technical capacity.

“(d) EFFECTIVE DATE.—This section shall take effect on the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1998.

#### “SEC. 818. REMEDIES FOR NONCOMPLIANCE.

“(a) ACTIONS BY SECRETARY AFFECTING GRANT AMOUNTS.—

“(1) IN GENERAL.—Except as provided in subsection (b), if the Secretary finds after reasonable notice and opportunity for a hearing that

the Department of Hawaiian Home Lands has failed to comply substantially with any provision of this title, the Secretary shall—

“(A) terminate payments under this title to the Department;

“(B) reduce payments under this title to the Department by an amount equal to the amount of such payments that were not expended in accordance with this title; or

“(C) limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

“(2) ACTIONS.—If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1), the Secretary shall continue that action until the Secretary determines that the failure by the Department to comply with the provision has been remedied by the Department and the Department is in compliance with that provision.

“(b) NONCOMPLIANCE BECAUSE OF A TECHNICAL INCAPACITY.—The Secretary may provide technical assistance for the Department, either directly or indirectly, that is designed to increase the capability and capacity of the Director of the Department to administer assistance provided under this title in compliance with the requirements under this title if the Secretary makes a finding under subsection (a), but determines that the failure of the Department to comply substantially with the provisions of this title—

“(1) is not a pattern or practice of activities constituting willful noncompliance; and

“(2) is a result of the limited capability or capacity of the Department of Hawaiian Home Lands.

“(c) REFERRAL FOR CIVIL ACTION.—

“(1) AUTHORITY.—In lieu of, or in addition to, any action that the Secretary may take under subsection (a), if the Secretary has reason to believe that the Department of Hawaiian Home Lands has failed to comply substantially with any provision of this title, the Secretary may refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

“(2) CIVIL ACTION.—Upon receiving a referral under paragraph (1), the Attorney General may bring a civil action in any United States district court of appropriate jurisdiction for such relief as may be appropriate, including an action—

“(A) to recover the amount of the assistance furnished under this title that was not expended in accordance with this title; or

“(B) for mandatory or injunctive relief.

“(d) REVIEW.—

“(1) IN GENERAL.—If the Director receives notice under subsection (a) of the termination, reduction, or limitation of payments under this Act, the Director—

“(A) may, not later than 60 days after receiving such notice, file with the United States Court of Appeals for the Ninth Circuit, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action of the Secretary; and

“(B) upon the filing of any petition under subparagraph (A), shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

“(2) PROCEDURE.—

“(A) IN GENERAL.—The Secretary shall file in the court a record of the proceeding on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

“(B) OBJECTIONS.—No objection to the action of the Secretary shall be considered by the court unless the Department has registered the objection before the Secretary.

“(3) DISPOSITION.—

“(A) COURT PROCEEDINGS.—

“(i) JURISDICTION OF COURT.—The court shall have jurisdiction to affirm or modify the action

of the Secretary or to set the action aside in whole or in part.

“(ii) FINDINGS OF FACT.—If supported by substantial evidence on the record considered as a whole, the findings of fact by the Secretary shall be conclusive.

“(iii) ADDITION.—The court may order evidence, in addition to the evidence submitted for review under this subsection, to be taken by the Secretary, and to be made part of the record.

“(B) SECRETARY.—

“(i) IN GENERAL.—The Secretary, by reason of the additional evidence referred to in subparagraph (A) and filed with the court—

“(I) may—

“(aa) modify the findings of fact of the Secretary; or

“(bb) make new findings; and

“(II) shall file—

“(aa) such modified or new findings; and

“(bb) the recommendation of the Secretary, if any, for the modification or setting aside of the original action of the Secretary.

“(ii) FINDINGS.—The findings referred to in clause (i)(II)(bb) shall, with respect to a question of fact, be considered to be conclusive if those findings are—

“(I) supported by substantial evidence on the record; and

“(II) considered as a whole.

“(4) FINALITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), upon the filing of the record under this subsection with the court—

“(i) the jurisdiction of the court shall be exclusive; and

“(ii) the judgment of the court shall be final.

“(B) REVIEW BY SUPREME COURT.—A judgment under subparagraph (A) shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification, as provided in section 1254 of title 28, United States Code.

#### “SEC. 819. MONITORING OF COMPLIANCE.

“(a) ENFORCEABLE AGREEMENTS.—

“(1) IN GENERAL.—The Director, through binding contractual agreements with owners or other authorized entities, shall ensure long-term compliance with the provisions of this title.

“(2) MEASURES.—The measures referred to in paragraph (1) shall provide for—

“(A) to the extent allowable by Federal and State law, the enforcement of the provisions of this title by the Department and the Secretary; and

“(B) remedies for breach of the provisions referred to in paragraph (1).

“(b) PERIODIC MONITORING.—

“(1) IN GENERAL.—Not less frequently than annually, the Director shall review the activities conducted and housing assisted under this title to assess compliance with the requirements of this title.

“(2) REVIEW.—Each review under paragraph (1) shall include onsite inspection of housing to determine compliance with applicable requirements.

“(3) RESULTS.—The results of each review under paragraph (1) shall be—

“(A) included in a performance report of the Director submitted to the Secretary under section 820; and

“(B) made available to the public.

“(c) PERFORMANCE MEASURES.—The Secretary shall establish such performance measures as may be necessary to assess compliance with the requirements of this title.

#### “SEC. 820. PERFORMANCE REPORTS.

“(a) REQUIREMENT.—For each fiscal year, the Director shall—

“(1) review the progress the Department has made during that fiscal year in carrying out the housing plan submitted by the Department under section 803; and

"(2) submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review.

"(b) CONTENT.—Each report submitted under this section for a fiscal year shall—

"(1) describe the use of grant amounts provided to the Department of Hawaiian Home Lands for that fiscal year;

"(2) assess the relationship of the use referred to in paragraph (1) to the goals identified in the housing plan;

"(3) indicate the programmatic accomplishments of the Department; and

"(4) describe the manner in which the Department would change its housing plan submitted under section 803 as a result of its experiences.

"(c) SUBMISSIONS.—The Secretary shall—

"(1) establish a date for submission of each report under this section;

"(2) review each such report; and

"(3) with respect to each such report, make recommendations as the Secretary considers appropriate to carry out the purposes of this title.

"(d) PUBLIC AVAILABILITY.—

"(1) COMMENTS BY BENEFICIARIES.—In preparing a report under this section, the Director shall make the report publicly available to the beneficiaries of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.) and give a sufficient amount of time to permit those beneficiaries to comment on that report before it is submitted to the Secretary (in such manner and at such time as the Director may determine).

"(2) SUMMARY OF COMMENTS.—The report shall include a summary of any comments received by the Director from beneficiaries under paragraph (1) regarding the program to carry out the housing plan.

"SEC. 821. REVIEW AND AUDIT BY SECRETARY.

"(a) ANNUAL REVIEW.—

"(1) IN GENERAL.—The Secretary shall, not less frequently than on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether—

"(A) the Director has—

"(i) carried out eligible activities under this title in a timely manner;

"(ii) carried out and made certifications in accordance with the requirements and the primary objectives of this title and with other applicable laws; and

"(iii) a continuing capacity to carry out the eligible activities in a timely manner;

"(B) the Director has complied with the housing plan submitted by the Director under section 803; and

"(C) the performance reports of the Department under section 821 are accurate.

"(2) ONSITE VISITS.—Each review conducted under this section shall, to the extent practicable, include onsite visits by employees of the Department of Housing and Urban Development.

"(b) REPORT BY SECRETARY.—The Secretary shall give the Department of Hawaiian Home Lands not less than 30 days to review and comment on a report under this subsection. After taking into consideration the comments of the Department, the Secretary may revise the report and shall make the comments of the Department and the report with any revisions, readily available to the public not later than 30 days after receipt of the comments of the Department.

"(c) EFFECT OF REVIEWS.—The Secretary may make appropriate adjustments in the amount of annual grants under this title in accordance with the findings of the Secretary pursuant to reviews and audits under this section. The Secretary may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the reviews and audits of the Secretary under this section, except that grant amounts already expended on affordable housing activities may not be recaptured or deducted

from future assistance provided to the Department of Hawaiian Home Lands.

"SEC. 822. GENERAL ACCOUNTING OFFICE AUDITS.

"To the extent that the financial transactions of the Department of Hawaiian Home Lands involving grant amounts under this title relate to amounts provided under this title, those transactions may be audited by the Comptroller General of the United States under such regulations as may be prescribed by the Comptroller General. The Comptroller General of the United States shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Department of Hawaiian Home Lands pertaining to such financial transactions and necessary to facilitate the audit.

"SEC. 823. REPORTS TO CONGRESS.

"(a) IN GENERAL.—Not later than 90 days after the conclusion of each fiscal year in which assistance under this title is made available, the Secretary shall submit to the Congress a report that contains—

"(1) a description of the progress made in accomplishing the objectives of this title;

"(2) a summary of the use of funds available under this title during the preceding fiscal year; and

"(3) a description of the aggregate outstanding loan guarantees under section 184A of the Housing and Community Development Act of 1992.

"(b) RELATED REPORTS.—The Secretary may require the Director to submit to the Secretary such reports and other information as may be necessary in order for the Secretary to prepare the report required under subsection (a).

"SEC. 824. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Department of Housing and Urban Development for grants under this title such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002 and 2003."

SEC. 4. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.

Subtitle E of title I of the Housing and Community Development Act of 1992 is amended by inserting after section 184 (12 U.S.C. 1715e-13a) the following:

"SEC. 184A. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.

"(a) DEFINITIONS.—In this section:

"(1) DEPARTMENT OF HAWAIIAN HOME LANDS.—The term 'Department of Hawaiian Home Lands' means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a Native Hawaiian family, the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, or private nonprofit or for-profit organizations experienced in the planning and development of affordable housing for Native Hawaiians.

"(3) FAMILY.—The term 'family' means 1 or more persons maintaining a household, as the Secretary shall by regulation provide.

"(4) GUARANTEE FUND.—The term 'Guarantee Fund' means the Native Hawaiian Housing Loan Guarantee Fund established under subsection (i) of this section.

"(5) HAWAIIAN HOME LANDS.—The term 'Hawaiian Home Lands' means lands that—

"(A) have the status of Hawaiian Home Lands under section 204 of the Hawaiian Homes Commission Act (42 Stat. 110); or

"(B) are acquired pursuant to that Act.

"(6) NATIVE HAWAIIAN.—The term 'Native Hawaiian' has the meaning given the term 'native Hawaiian' in section 201 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

"(7) OFFICE OF HAWAIIAN AFFAIRS.—The term 'Office of Hawaiian Affairs' means the entity of that name established under the constitution of the State of Hawaii.

"(b) AUTHORITY.—To provide access to sources of private financing to Native Hawaiian families who otherwise could not acquire housing financing because of the unique legal status of the Hawaiian Home Lands or as a result of a lack of access to private financial markets, the Secretary may guarantee an amount not to exceed 100 percent of the unpaid principal and interest that is due on an eligible loan under subsection (b).

"(c) ELIGIBLE LOANS.—Under this section, a loan is an eligible loan if that loan meets the following requirements:

"(1) ELIGIBLE BORROWERS.—The loan is made only to a borrower who—

"(A) is a Native Hawaiian family;

"(B) the Department of Hawaiian Home Lands;

"(C) the Office of Hawaiian Affairs; or

"(D) a private nonprofit organization experienced in the planning and development of affordable housing for Native Hawaiians.

"(2) ELIGIBLE HOUSING.—

"(A) IN GENERAL.—The loan will be used to construct, acquire, or rehabilitate not more than 4-family dwellings that are standard housing and are located on Hawaiian Home Lands for which a housing plan described in subparagraph (B) applies.

"(B) HOUSING PLAN.—A housing plan described in this subparagraph is a housing plan that—

"(i) has been submitted and approved by the Secretary under section 803 of the Native American Housing Assistance and Self-Determination Amendments of 1998; and

"(ii) provides for the use of loan guarantees under this section to provide affordable homeownership housing on Hawaiian Home Lands.

"(3) SECURITY.—The loan may be secured by any collateral authorized under applicable Federal law or State law.

"(4) LENDERS.—

"(A) IN GENERAL.—The loan shall be made only by a lender approved by, and meeting qualifications established by, the Secretary, including any lender described in subparagraph (B), except that a loan otherwise insured or guaranteed by an agency of the Federal Government or made by the Department of Hawaiian Home Lands from amounts borrowed from the United States shall not be eligible for a guarantee under this section.

"(B) APPROVAL.—The following lenders shall be considered to be lenders that have been approved by the Secretary:

"(i) Any mortgagee approved by the Secretary for participation in the single family mortgage insurance program under title II of the National Housing Act (12 U.S.C.A. 1707 et seq.).

"(ii) Any lender that makes housing loans under chapter 37 of title 38, United States Code, that are automatically guaranteed under section 3702(d) of title 38, United States Code.

"(iii) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949 (42 U.S.C.A. 1441 et seq.).

"(iv) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

"(5) TERMS.—The loan shall—

"(A) be made for a term not exceeding 30 years;

"(B) bear interest (exclusive of the guarantee fee under subsection (d) and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, but not to exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaranteed

or insured by any agency or instrumentality of the Federal Government;

"(C) involve a principal obligation not exceeding—

"(i) 97.75 percent of the appraised value of the property as of the date the loan is accepted for guarantee (or 98.75 percent if the value of the property is \$50,000 or less); or

"(ii) the amount approved by the Secretary under this section; and

"(D) involve a payment on account of the property—

"(i) in cash or its equivalent; or

"(ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

"(d) CERTIFICATE OF GUARANTEE.—

"(1) APPROVAL PROCESS.—

"(A) IN GENERAL.—Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination.

"(B) APPROVAL.—If the Secretary approves the application submitted under subparagraph (A), the Secretary shall issue a certificate under this subsection as evidence of the loan guarantee approved.

"(2) STANDARD FOR APPROVAL.—The Secretary may approve a loan for guarantee under this section and issue a certificate under this subsection only if the Secretary determines that there is a reasonable prospect of repayment of the loan.

"(3) EFFECT.—

"(A) IN GENERAL.—A certificate of guarantee issued under this subsection by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under this section and the amount of that guarantee.

"(B) EVIDENCE.—The evidence referred to in subparagraph (A) shall be incontestable in the hands of the bearer.

"(C) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for the obligations made by the Secretary under this section.

"(4) FRAUD AND MISREPRESENTATION.—This subsection may not be construed—

"(A) to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation; or

"(B) to bar the Secretary from establishing by regulations that are on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

"(e) GUARANTEE FEE.—

"(1) IN GENERAL.—The Secretary shall fix and collect a guarantee fee for the guarantee of a loan under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan.

"(2) PAYMENT.—The fee under this subsection shall—

"(A) be paid by the lender at time of issuance of the guarantee; and

"(B) be adequate, in the determination of the Secretary, to cover expenses and probable losses.

"(3) DEPOSIT.—The Secretary shall deposit any fees collected under this subsection in the Native Hawaiian Housing Loan Guarantee Fund established under subsection (j).

"(f) LIABILITY UNDER GUARANTEE.—The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement involved.

"(g) TRANSFER AND ASSUMPTION.—Notwithstanding any other provision of law, any loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution

subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

"(h) DISQUALIFICATION OF LENDERS AND CIVIL MONEY PENALTIES.—

"(1) IN GENERAL.—

"(A) GROUNDS FOR ACTION.—If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c)—

"(i) has failed—

"(I) to maintain adequate accounting records;

"(II) to service adequately loans guaranteed under this section; or

"(III) to exercise proper credit or underwriting judgment; or

"(ii) has engaged in practices otherwise detrimental to the interest of a borrower or the United States,

the Secretary may take action under subparagraph (B).

"(B) ACTIONS.—Upon a determination by the Secretary that a holder of a guarantee certificate under subsection (c) has failed to carry out an activity described in subparagraph (A)(i) or has engaged in practices described in subparagraph (A)(ii), the Secretary may—

"(i) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

"(ii) bar such lender or holder from acquiring additional loans guaranteed under this section; and

"(iii) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

"(2) CIVIL MONEY PENALTIES FOR INTENTIONAL VIOLATIONS.—

"(A) IN GENERAL.—The Secretary may impose a civil monetary penalty on a lender or holder of a guarantee certificate under subsection (d) if the Secretary determines that the holder or lender has intentionally failed—

"(i) to maintain adequate accounting records;

"(ii) to adequately service loans guaranteed under this section; or

"(iii) to exercise proper credit or underwriting judgment.

"(B) PENALTIES.—A civil monetary penalty imposed under this paragraph shall be imposed in the manner and be in an amount provided under section 536 of the National Housing Act (12 U.S.C.A. 1735f-1) with respect to mortgagees and lenders under that Act.

"(3) PAYMENT ON LOANS MADE IN GOOD FAITH.—Notwithstanding paragraphs (1) and (2), if a loan was made in good faith, the Secretary may not refuse to pay a lender or holder of a valid guarantee on that loan, without regard to whether the lender or holder is barred under this subsection.

"(i) PAYMENT UNDER GUARANTEE.—

"(1) LENDER OPTIONS.—

"(A) IN GENERAL.—

"(i) NOTIFICATION.—If a borrower on a loan guaranteed under this section defaults on the loan, the holder of the guarantee certificate shall provide written notice of the default to the Secretary.

"(ii) PAYMENT.—Upon providing the notice required under clause (i), the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in 1 of the following manners:

"(1) FORECLOSURE.—

"(aa) IN GENERAL.—The holder of the certificate may initiate foreclosure proceedings (after providing written notice of that action to the Secretary).

"(bb) PAYMENT.—Upon a final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder

of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (f)) plus reasonable fees and expenses as approved by the Secretary.

"(cc) SUBROGATION.—The rights of the Secretary shall be subrogated to the rights of the holder of the guarantee. The holder shall assign the obligation and security to the Secretary.

"(1) NO FORECLOSURE.—

"(aa) IN GENERAL.—Without seeking foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a request to assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee. The Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interest of the United States.

"(bb) PAYMENT.—Upon assignment, the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (f)).

"(cc) SUBROGATION.—The rights of the Secretary shall be subrogated to the rights of the holder of the guarantee. The holder shall assign the obligation and security to the Secretary.

"(B) REQUIREMENTS.—Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines to be appropriate.

"(2) LIMITATIONS ON LIQUIDATION.—

"(A) IN GENERAL.—If a borrower defaults on a loan guaranteed under this section that involves a security interest in restricted Hawaiian Home Land property, the mortgagee or the Secretary shall only pursue liquidation after offering to transfer the account to another eligible Hawaiian family or to the Department of Hawaiian Home Lands.

"(B) LIMITATION.—If, after action is taken under subparagraph (A), the mortgagee or the Secretary subsequently proceeds to liquidate the account, the mortgagee or the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property described in subparagraph (A) except to another eligible Hawaiian family or to the Department of Hawaiian Home Lands.

"(j) HAWAIIAN HOUSING LOAN GUARANTEE FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Hawaiian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

"(2) CREDITS.—The Guarantee Fund shall be credited with—

"(A) any amount, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

"(B) any amounts appropriated pursuant to paragraph (7);

"(C) any guarantee fees collected under subsection (d); and

"(D) any interest or earnings on amounts invested under paragraph (4).

"(3) USE.—Amounts in the Guarantee Fund shall be available, to the extent provided in appropriations Acts, for—

"(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of such loans;

"(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in

connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

"(C) acquiring such security property at foreclosure sales or otherwise;

"(D) paying administrative expenses in connection with this section; and

"(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

"(4) INVESTMENT.—Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required at the time of the determination to carry out this section may be invested in obligations of the United States.

"(5) LIMITATION ON COMMITMENTS TO GUARANTEE LOANS AND MORTGAGES.—

"(A) REQUIREMENT OF APPROPRIATIONS.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year to the extent, or in such amounts as, are or have been provided in appropriations Acts, without regard to the fiscal year for which such amounts were appropriated.

"(B) LIMITATIONS ON COSTS OF GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriations Acts to cover the costs (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of such loan guarantees for such fiscal year. Any amounts appropriated pursuant to this subparagraph shall remain available until expended.

"(C) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section for each of fiscal years 1999, 2000, 2001, 2002, and 2003 with an aggregate outstanding principal amount not exceeding \$100,000,000 for each such fiscal year.

"(6) LIABILITIES.—All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

"(k) REQUIREMENTS FOR STANDARD HOUSING.—

"(1) IN GENERAL.—The Secretary shall, by regulation, establish housing safety and quality standards to be applied for use under this section.

"(2) STANDARDS.—The standards referred to in paragraph (1) shall—

"(A) provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section; and

"(B) require each dwelling unit in any housing acquired in the manner described in subparagraph (A) to—

"(i) be decent, safe, sanitary, and modest in size and design;

"(ii) conform with applicable general construction standards for the region in which the housing is located;

"(iii) contain a plumbing system that—

"(I) uses a properly installed system of piping;

"(II) includes a kitchen sink and a partitioned bathroom with lavatory, toilet, and bath or shower; and

"(III) uses water supply, plumbing, and sewage disposal systems that conform to any min-

imum standards established by the applicable county or State;

"(iv) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any appropriate county, State, or national code;

"(v) be not less than the size provided under the applicable locally adopted standards for size of dwelling units, except that the Secretary, upon request of the Department of Hawaiian Home Lands may waive the size requirements under this paragraph; and

"(vi) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act (12 U.S.C.A. 1735f-4), unless the Secretary determines that the requirements are not applicable.

"(l) APPLICABILITY OF CIVIL RIGHTS STATUTES.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) apply to a guarantee provided under this subsection, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of the guarantee to an eligible entity on the basis that the entity serves Native Hawaiian families or is a Native Hawaiian family."

Mr. COCHRAN. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The committee substitute was agreed to.

The bill (S. 109), as amended, was considered read the third time and passed.

#### IDEA FUNDING

Mr. LOTT. Mr. President I would like to make a few brief comments about the IDEa program within this bill, a program that I think is imperative to our nation's biomedical research capability. I would also like to engage in a brief dialog with the Minority Leader, Senator DASCHLE, on this important issue.

The National Institutes of Health Institutional Development Award program—known as the IDEa program—builds additional research capacity and is an important part of our effort to better treat, cure and prevent disease by addressing the undue geographic concentration of research funds. IDEa works to increase our nation's biomedical research capability by broadening our country's research base. IDEa funds biomedical research in states that have not participated substantially in NIH research programs.

Mr. President, many scientists are concerned about the extreme geographic concentration of NIH research funds. In Fiscal Year 1995, for example, the NIH made \$9.3 billion in extramural awards. Mr. President, the 24 states

that participate in the IDEa program received just 5.2 percent of those funds. Let me repeat: in FY95, the last year for which we have complete figures, the NIH awarded funds across this nation totaling \$9.3 billion. But all the researchers in the 24 IDEa states combined received only \$487 million of that. On the other hand, one state alone received nearly three times the total amount of those 24 states combined. The top 5 states received nearly one-half the NIH funds.

Let me be clear, Mr. President, that the concern here is not one of a parochial nature. Nobody is saying that the NIH ought to distribute funding evenly by states. But at a time when we are seeing substantial increases in the NIH research budget, we need to increase the capacity of every region of the country—not just of a handful of states.

IDEa has potential to be an important part of our efforts to build our biomedical research capacity, but it has not received the level of funding it needs to truly be effective. The FY99 NIH budget request was \$14.76 billion. Of that amount—well over \$14 billion—the NIH requested just \$5.2 million for the IDEa program. The bill before us includes \$10 million for IDEa, which is a start—but in my view not enough to accomplish the goal for which the program was intended. I thank the Chairman of the Subcommittee, Senator SPECTER, for the support he has given IDEa thus far, but I believe we can and should do more next year.

Mr. President, I would ask the Minority Leader, Senator DASCHLE, if he would like to add anything to what I have said.

Mr. DASCHLE. Mr. President, I thank the Majority Leader for his comments, and I share the Senator's concern about the concentration of NIH funds. I, too, ask if next year we can't find more than \$10 million for this program—\$10 million that will be split among researchers in 24 states.

I would also like to explain briefly why I believe IDEa ought to be funded at a much higher level. Mr. President, IDEa funds only merit-based, peer reviewed research that meets NIH research objectives. Let me state that another way: IDEa funds only good science, and it is in no way an earmarked program specific to a specific disease or disease-related issue. Researchers from the 24 IDEa states can submit proposals to any one of a number of existing NIH funding mechanisms, and those proposals are then peer-reviewed and funding decisions are made based on merit.

Mr. President, I think the statistics the Majority Leader mentioned regarding the extreme geographic concentration of NIH research funds are eye-opening. I think many members of the Senate would be surprised to learn that nearly one-half of NIH extramural

funds go to just five states, and that 24 IDeA states combined received just over 5% of NIH extramural funding in FY95. In fact, the Majority leader and I were joined by 24 of our colleagues in the Senate in sending a letter to the Subcommittee Chairman, Senator SPECTER, supporting \$100 million for IDeA in FY99.

To put that request in perspective, Mr. President, the final FY99 Labor, Health and Human Services and Education appropriation before us increases NIH funding by \$2 billion. In other words, a \$100 million IDeA program would have designated five percent of one year's increase for this program which funds competitive, peer-reviewed research in 24 states. The conferees did include \$10 million for IDeA—an increase from the FY98 funding level of \$5 million—and I thank Senator SPECTER for his support. Because this program is so important, I will continue to encourage the Chairman to increase IDeA funding next year and in the years that follow.

Mr. LOTT. I thank the Minority Leader for his remarks, and I look forward continuing to work with him to significantly increase IDeA funding next year.

#### THE ECONOMIC DEVELOPMENT ADMINISTRATION REFORM ACT

Mr. STEVENS. I would like to ask the Chairman and Ranking Member of the Committee on Environment and Public Works a question regarding S. 2364, the Economic Development Administration Reform Act, which passed the Senate on Monday. As they are aware, the State of Alaska, while rich in resources, also has communities that suffer serious economic distress. EDA assistance can make a difference to many of these communities. Thus I am pleased to support the efforts of my friends to reauthorize this important agency; and indeed, I am a cosponsor of this bill.

Let me ask specifically about an issue that is very important to Alaskans, especially those in Southeast Alaska. Under this bill, EDA programs are available to aid distressed communities with both public works and economic adjustment assistance. In Southeast Alaska, many communities have faced economic adjustment problems, such as high unemployment, as a result of Federal regulatory changes with regard to timber harvests. If these communities meet the definition of "distressed" as outlined in the bill, would a situation such as theirs qualify as eligible for EDA assistance?

Mr. CHAFEE. Yes, we expect it would. The situation the Senator describes is exactly the type of situation that we would expect could be addressed by EDA. In fact, I would direct the senator's attention to the bill's new Section 2(a)(1), which specifically

references areas that are affected by Federal actions. The language notes as possible distressed areas those that suffer dislocation as a result of "certain Federal actions (including environmental requirements that result in the removal of economic activities from a locality)."

Mr. BAUCUS. I agree. In fact, many areas of the country, including Montana, face similar situations. We included that phrase intentionally to ensure that such distress may be addressed by EDA programs. It is our view, and it is a view shared by EDA officials, that such communities should be eligible to apply for EDA aid.

Mr. STEVENS. With regard to the criteria used to determine eligibility, Section 301(a)(3) refers to communities that experience special needs arising from severe unemployment or economic adjustment problems resulting from changes in economic conditions. Could my colleagues tell me whether EDA has flexibility in applying this criterion to areas—such as these timber-affected Alaskan communities—that are requesting EDA assistance?

Mr. CHAFEE. Section 301(a) sets the basic eligibility requirements for economically distressed areas. These criteria are intended to ensure that EDA assistance is targeted to truly distressed communities. The third criterion, which you mention, is intended to allow the necessary flexibility to address other situations of serious distress that, for a number of reasons, may not fulfill the first two criteria but that clearly would be considered by the Secretary and Congress as deserving of assistance. Thus, the bill before us provides the Secretary with sufficient flexibility in this regard.

Mr. BAUCUS. Again, I agree. We recognized that flexibility is required to ensure that EDA may address the varied causes and types of economic distress nationwide. Therefore, in his efforts to ensure that EDA assistance go to the communities of greatest distress, the Secretary is allowed some flexibility in making determinations for awards of assistance under this Act.

Mr. STEVENS. I thank my colleagues for making these important clarifications.

#### LINDA MORGAN AND THE SURFACE TRANSPORTATION BOARD

Mr. FORD. Mr. President, in the closing days of the 105th Congress, it appears that S. 1802, a bill to reauthorize the Surface Transportation Board, may not be enacted into law. I hope that the STB is not penalized in any way for the failure of Congress to enact S. 1802. In fact, I want my colleagues to know that Linda Morgan, the current chairman of the STB, is well respected within the Senate on both sides of the aisle. She was a valued member of the staff of the Senate Committee on Com-

merce, Science, and Transportation for several years. The work ethic, honesty and balance that she demonstrated as a member of the Committee's professional staff have been evidenced also at the STB.

Linda Morgan and her staff have handled a significant number of complex matters in a timely, thorough manner despite very limited resources. Just one example of the Board's evenhanded approach is the exhaustive review of the acquisition of Conrail by CSX and Norfolk Southern. This transaction will yield significant competitive and environmental benefits, not only in Kentucky but throughout the Eastern United States. The Board's evenhanded, professional approach in reviewing this major transaction and assessing the public benefits is indicative of the excellent work that Chairman Morgan and the Board have done since its creation.

As a result, I support S. 1802 and hope that the bill could still become law before the conclusion of the 105th Congress. Also, I urge the Administration to renominate Ms. Morgan for an additional term as Chairman of the STB. She is a proven, well-qualified public servant, and she has earned the opportunity to complete the work that she has started.

#### PROVIDING INFORMATION ABOUT THE SENATE

Mr. WARNER. Mr. President, today, an enhanced Virtual Tour of the United States was published on the U.S. Senate web server. This enhanced tour uses state-of-the-art technology to combine high quality graphics with still pictures to provide information about historical events, rooms, and works of art in the Senate.

The Virtual Tour provides people from all over the country, and indeed from around the world, an opportunity to visit the U.S. Senate via the World Wide Web. Information provided can be used to learn more about the U.S. Capitol, as well as to plan for tours of the Senate.

From panoramic views of the Senate Chamber to a zoomed-in focus on the President's chair in the Old Senate Chamber, visitors to the Virtual Tour will experience the history of the Capitol Building and its famous rooms, as well as the richness of our country's heritage through artwork, statues, and sculptures that reflect the diversity of our Nation. The Virtual Tour currently has four rooms of the Senate available: the Senate Chamber, the Old Senate Chamber, the Old Supreme Court, and the President's room. Descriptions of important events associated with each room are provided with the graphics. Additional rooms are planned to be added on a monthly basis.

I encourage my fellow Senators to let their constituents know about the Virtual Tour. This is a resource meant to

be shared with the public and enjoyed by all.

Finally, I would like to thank the following staff from the offices of the Senate Committee on Rules and Administration, the Senate Sergeant at Arms, the Secretary of the Senate, the Clerk of the House, and the Architect of the Capitol for their hard work and effort in planning, developing, and making the Virtual Tour of the Senate a reality: Cheri Allen, Chuck Badal, Richard Baker, Trent Coleman, Michael Dunn, Lisa Farmer, Wayne Firth, Charlie Kaiman, Betty Koed, Christopher Lee, Megan Lucas, Thomas Meenan, Heather Moore, Steve Payne, Brian Raines, Diane Skvarla, Ray Strong, Scott Strong, David Wall, and Wendy Wolff.

#### HUNGER IN AMERICA

Mr. GRAMS. Mr. President, I rise today to discuss the important issue of hunger in America. We often hear about hunger as a global problem affecting many people every day. Many in our own country warn us of a growing hunger problem in America.

One of my Minnesota constituents, Dr. Joseph Ioffe, is a former Russian professor of economics and challenges this thinking from his first hand knowledge of hunger in Russia. He has written an editorial that suggests our real problem is one that involves the quality of diet for low-income families rather than starvation.

Mr. President, I ask unanimous consent that Dr. Ioffe's article be printed in the RECORD.

#### IS THERE REALLY HUNGER IN AMERICA

(By Joseph Ioffe)

Another day, another letter in my mailbox from public organizations fighting hunger in America. And every letter is overloaded with general statements and emotional appeals but lacks facts and specifics.

Here is one from Larry Jones, president of Feed The Children, an Oklahoma City-based organization: "I am writing on behalf of a very special group that faces death every hour of every day of the year. It is the 15 million hungry children in the United States. Every 53 minutes a hungry child dies." A horrible picture—it looks like Rwanda or North Korea. Hard to believe that the U.S. government is providing food aid to many other countries while letting millions of its own people starve to death.

So I wrote a letter to Jones, asking him for specifics and, in particular, to furnish the names and addresses, at random, of children who died from starvation, say, last year. As it appeared from Jones' response, he personally had never witnessed such cases, never kept any records of the victims of hunger, but relied on statistics from other organizations.

After all, he said, his mission was not in studying facts about hunger but raising money for children who, he believed, were starving in the U.S.—which he has been doing for years by hitting mailboxes all around the country.

So I decided to go to the source Jones referred to. In a publication by the Children's

Defense Fund, a Washington, DC-based public organization, I found the numbers but defined differently: 15 million children living in poverty . . . every 53 minutes a child dies from poverty. . . . It appeared that Jones did not just borrow the statistics from CDF but adjusted it to the purpose of his own understanding.

Poverty does not necessarily mean hunger. In the U.S. the poverty lines is set up fairly high. Suffice it to say that a family living at the poverty level in America has a higher income than the median income of the same size family in 150 other countries throughout the world including Eastern Europe and the former Soviet Union.

But let us put aside the difference between hunger and poverty. The point is that the CDF "death from poverty" statistics were unfounded as well. The official mortality statistics are based on the records of hospitals, and do not operate with such cause of death as "poverty."

So any responsible statement about children dying from poverty is supposed to be supported and substantiated by special studies establishing the link between medical and social causes. Nothing like that could be found in the CDF publications. Small wonder that my requests for information of this kind was just ignored by CDF.

And here is another letter, this one from Christine Vladimiroff, president of Second Harvest, a food bank network based in Chicago: "Tonight millions of Americans won't get enough to eat . . ." Again, no specifics about numbers, not the slightest attempt to prove that is real. Instead, attached to the letter was a picture of the Statute of Liberty holding the "Will work for food" poster, it was ridiculous.

Those men and women with such posters on the busy city streets, idlers and drifters, don't care about work and food at all. They are just playing a trick on compassionate motorists. At the red light, the motorists reach out for their pocket-books and hand out a dollar or two to the "hungry" guys. None of them has ever accepted any offer to work. But their day's "work" with the poster usually brings in \$100 or more and the money is being spent, right away, for drugs and alcohol.

As for food, they get it at the soup kitchens. In the 30's soup kitchens served real hungry people, victims of the bad economic situation. Nowadays in America they are mostly a feeding place for people of anti-social behavior like idlers, drifters, drug abusers and alcoholics. Now the old saying, "he who does not work, does not eat." is out of date.

So is there hunger in America. It is common knowledge that the U.S. is the world leader in food production, that the food prices, in relation to the wages, are the lowest, that the food stamps program combined with free distribution of basic nutritional products from the state reserves for the low-income families provides a safeguard against any threat of hunger in America. Nobody is starving in this country, and, moreover, nobody is dying from starvation.

The real problem is not feeding the hungry but improving the quality of the daily diet of the low-income families, extending their diet beyond a certain number of plain products and bringing it, gradually, to the modern nutritional standards. That is where the efforts of the charitable organizations should be directed.

Those ambitious activities who are trying to impress the public with sensations and high drama, talking about millions of star-

ing Americans facing death, don't do any good to the country.

#### BAILEY "USE OR CARRY" FIREARMS BILL, S. 191

Mr. DEWINE. Mr. President, I rise to hail the passage last night of the Bailey Fix Act, also known as the use or carry bill, after two Congresses. This legislation will provide enhanced mandatory minimum penalties for those criminals who use guns while trafficking in drugs or in the commission of violent crimes. When the Supreme Court handed down its decision in Bailey versus United States in 1995, the Court dealt a serious blow to law enforcement. Prior to that decision, drug traffickers who "used or carried" firearms during or in relation to their drug trafficking crimes were subject to mandatory minimums of five years under Section 924(c) of Title 18. With this decision, the Court significantly limited prosecutors' ability to put gun-using, drug trafficking criminals away.

In Bailey, the Supreme Court, in a unanimous decision, announced that in order to receive the sentence enhancement for using or carrying a firearm during a violent or drug trafficking crime under Title 18 U.S.C. 924(c), the criminal must "actively employ" a firearm. This decision severely restricted an important tool used by federal prosecutors to put gun-using drug criminals behind bars. According to the U.S. Sentencing Commission, there were 9,182 defendants sentenced nationwide from 1991 to 1995 under 924(c). The Commission notes that the vast majority, about 75% of these cases are drug trafficking and bank robbery cases. Since the Bailey decision, the number of federal cases involving a 924(c) enhancement has declined by about 17%.

The question before this Congress for almost four years, two Senate hearings, and seven bills was how to restore this crime fighting tool. Across the political spectrum there is a consensus about the problem. There is also a consensus, I believe, that the purpose of this "use or carry" provision is twofold; to punish criminals who use guns, and to be a deterrent to would-be criminals not to use a gun. So, 924(c) comes with a message: "If you mix guns and drugs, or guns and violence, we're going to come after you—and the price will be high."

The final bill attempts to address the issue: "Where do we draw the line in constructive possession cases?" How do we address those situations when the gun is not in the direct possession of the criminal when either the crime is committed or he is caught for the crime.

This legislation, however, is meant to embrace not only instances of brandishing, firing or displaying a firearm during a crime of violence or drug trafficking offense, but also to those situations where a defendant kept a firearm

available to provide security for the transaction, its fruit or proceeds, or was otherwise emboldened by its presence in the commission of the offense. Many of these instances, frankly, are simply an issue of proof. To that extent we must acknowledge our limitations in addressing a solution.

This bill would change the wording of Section 924(c) to add to "uses, carries" "in furtherance of the crime, possesses a firearm." The original S. 191 did not contain this "in furtherance language" that modifies "possesses."

[In pertinent part, Section 924(c) would read:

"... any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall . . ."]

The purpose of adding the "in furtherance" language is to assure that someone who possesses a gun that has nothing to do with the crime does not fall under 924(c). I believe that the "in furtherance" language is a slightly higher standard that encompasses "during and in relation to" language, by requiring an indication of helping forward, promote, or advance a crime. This provision applies equally to the individual simply exercising his or her right to own a firearm, as well as the prosecutor who would bring a 924(c) action where there is, arguably, an insufficient nexus between the crime and the gun.

This bill will:

Provide for a mandatory minimum sentence of five years for anyone who uses, carries or possesses a firearm during a crime of violence or drug trafficking offense;

Provide a seven year sentence for "brandishing" by making known the presence of a firearm during the commission of a crime.

Raise the penalty to ten years if the gun is discharged.

Mr. President, I have always believed that that this is an eminently fixable problem. Our prosecutors need full use of this provision now, and it is my hope and my belief that this legislation will accomplish that purpose.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WARNER, from the Committee on Rules and Administration, with an amendment in the nature of a substitute:

S. 2288. A bill to provide for the reform and continuing legislative oversight of the production, procurement, dissemination, and permanent public access of the Government's publications, and for other purposes (Rept. No. 105-413).

#### 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. D'AMATO:

S. 2640. A bill to extend the authorization for the Upper Delaware Citizens Advisory Council; to the Committee on Energy and Natural Resources.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HELMS (for himself and Mr. BIDEN):

S. Res. 310. A resolution authorizing the printing of background information on the Committee on Foreign Relations as a Senate document; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 2128

At the request of Mr. STEVENS, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

S. 2283

At the request of Mr. DEWINE, the name of the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 2283, a bill to support sustainable and broad-based agricultural and rural development in sub-Saharan Africa, and for other purposes.

S. 2566

At the request of Ms. LANDRIEU, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2566, a bill to provide Coastal Impact Assistance to State and local governments, to amend the Outer Continental Shelf Lands Act Amendments of 1978, the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes.

SENATE RESOLUTION 285

At the request of Mr. LUGAR, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of Senate Resolution 285, a resolution expressing the sense of the Senate that all necessary steps should be taken to ensure the elections to be held in Gabon in December of 1998 are free and fair.

#### SENATE RESOLUTION 310—AUTHORIZING PRINTING OF BACKGROUND INFORMATION ON THE COMMITTEE ON FOREIGN RELATIONS

Mr. HELMS (for himself and Mr. BIDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 310

Resolved,

SECTION 1. PRINTING OF BACKGROUND INFORMATION RELATING TO THE HISTORY OF THE UNITED STATES SENATE COMMITTEE ON FOREIGN RELATIONS.

The Public Printer shall print—

(1) as a Senate document a compilation of materials, with illustrations, entitled "Background Information on the Committee on Foreign Relations, United States Senate (7th Revised Edition),

(2) in addition to the usual number, there shall be printed 500 copies of the document for the use of the committee, and

(3) the cost for printing this document shall not exceed \$5,825.00.

#### ADDITIONAL STATEMENTS

##### RESIDENCY FOR VOVA MALOFIENKO

• Mr. LAUTENBERG. Mr. President, I rise today to express my pleasure that legislation providing permanent residency in the United States for 13-year-old Vova Malofienko and his family, residents of Short Hills, NJ, passed the Senate. Vova Malofienko has leukemia from his having lived 30 miles from the Chernobyl nuclear reactor in Ukraine during and after the infamous disaster. His leukemia is in remission only because of the emergency medical treatment he's received in the United States.

Were Vova forced to return to Ukraine, the United States would be placing an innocent child near the front of the line on death row. Vova was one of eight children of Chernobyl who came to the United States in 1990—and when the seven others later returned to Ukraine, they died one by one because of inadequate cancer treatment. Not a child survived.

On behalf of the Malofienkos, I thank my colleagues for their invaluable support of this legislation. We are a compassionate nation that has opened its heart to Vova and his family, who came in dire medical need.

Mr. President, I would like to take this opportunity to tell my colleagues a bit more about Vova and his family. Vladimir "Vova" Malofienko was born on June 29, 1984 in Chernigov, Ukraine. His mother, Olga Matsko, was born on September 29, 1959 in Piratin, Ukraine, and his father, Alexander Malofienko, was born on December 25, 1957 in Chernigov, Ukraine.

Vova was only 2 when the Chernobyl reactor exploded in 1986 and exposed

him to radiation. He was diagnosed with leukemia in June 1990 at age 6. Vova and his mother came to the United States later in 1990 on a B-1 visitor's visa so that Vova could attend a cancer treatment camp for children, sponsored by the Children of Chernobyl Relief Fund. Vova was invited to stay in the United States to receive more extensive treatment and chemotherapy. In November of 1992, Vova's cancer went into remission. Vova's father, Alexander Malofienko joined the family in 1992, also on a B-1 visa.

Vova and his family have wanted to remain in the United States because of the extraordinary health concerns facing Vova. Regrettably, as I mentioned earlier, Vova is the only survivor from a group of eight children of Chernobyl who came to the United States together in 1990. The seven other children returned to Ukraine and have since died. Now that Vova is in remission, it would indeed be tragic to return him to an environment which would once again endanger his life. The air, food, and water in Ukraine are contaminated with radiation that people residing there for several years have grown accustomed to, but which could be perilous to Vova's weakened immune system.

Furthermore, treatment available in Ukraine is not as sophisticated and up to date as treatment available in the United States. Before Vova came to the United States, no aggressive treatment for his leukemia had been provided. Although Vova completed his chemotherapy in 1992, he continues to need medical follow-up on a consistent basis, including physical examinations, lab work and radiological examinations to assure early detection and prompt and appropriate therapy in the unfortunate event the leukemia recurs.

According to Dr. Peri Kamalakar, Director of the Valerie Fund Children's Center at Newark Beth Israel hospital, where Vova has received care, Vova's cancer is considered high risk with a threat of relapse. He is also at risk to develop significant later complications secondary to the intensive chemotherapy he received, including heart problems and secondary cancers. Another significant risk is relapse in the bone marrow, testis, or central nervous system. Dr. Kamalakar has concluded that Vova's chance for a permanent cure is considerably better if he stays in the United States.

I am pleased that this bill has passed today. It is now up to the House of Representatives to send this bill to the President and allow Vova and his family to remain in the United States. Finally, I would like to thank all of the Senators, from both sides of the aisle, who were involved in negotiations on these private relief bills.●

#### LIEUTENANT GENERAL CAROL MUTTER

● Mr. KEMPTHORNE. Mr. President, I rise today to honor a fine Marine Corps Officer, Lieutenant General Carol Mutter, the Deputy Chief of Staff for Manpower and Reserve Affairs, Headquarters Marine Corps, Washington, D.C.

General Mutter, a native daughter of Colorado, will soon retire from active duty following a long and distinguished career as an officer of Marines. A graduate of the University of Northern Colorado, in Greeley, CO she joined the Marine Corps in 1966 and completed the Woman Officer Basic Course in 1967. She was then trained as a data processing officer and assigned to data processing installations in Quantico, VA and Camp Pendleton, CA. In 1971, she returned to Quantico as a platoon commander and instructor for women officer candidates and basic course lieutenants.

Over the years, Carol has made significant accomplishments both as a Marine officer and as a woman. As a Colonel, in July 1988 she joined the U.S. Space Command, J-3 (Operations) Directorate in Colorado Springs where she became the first woman to gain qualification as a Space Director. After initially serving as a Command Center Crew Commander/Space Director she became the Division Chief responsible for the operation of the Commander in Chief's Command Center. In June 1992, she transferred to Okinawa for a second tour, this time as the first woman of general/flag officer rank to command a major deployable tactical command, the 3d Force Service Support Group, Third Marine Expeditionary Force, U.S. Marine Forces Pacific. Finally, upon advancement to Lieutenant General (the first woman in the Marine Corps to attain this rank) on September 1, 1996, she assumed her current duties.

Throughout her services as a Marine, she worked continually to improve herself through furthering her professional military education and earning a M.A. degree in National Security and Strategic Studies from the Naval War College at Newport, RI and honorary doctorate degrees from Salve Regina College, also in Newport, RI and another honorary doctorate from UNC. In addition to the Naval War College at Newport, RI, General Mutter also attended the Amphibious Warfare School and the Marine Corps Command and Staff College, both at Quantico, VA.

We know the officers and men and women of the Marine Corps, from the Commandant on down, will sorely miss the service of Lieutenant General Mutter as she departs the Marine Corps. Among her many awards and recognitions are the Defense Superior Service Medal, the Navy Commendation Medal, and the Navy Achievement Medal—worthy recognition for days, months

and years of selfless dedication. The Marine Corps loss will be Indiana's gain as she settles in her new home in the Indianapolis area. We offer the warmest wishes to Carol and her husband Jim as they embark upon their new endeavors.

God Bless and good luck to a truly wonderful woman. Lieutenant General Mutter is truly a great American patriot and an inspiration to all.●

#### TRIBUTE TO AMERICA'S YOUNG ATHLETES

● Mr. CONRAD. Mr. President, I rise to recognize the tremendous accomplishment of a number of young American athletes. Specifically, I want to bring to the attention of the United States Senate the accomplishment of the 1998 United States All-Star High School Junior National Ultimate Frisbee Team at the recently completed Ultimate Frisbee World Championship Tournament.

Mr. President, High School Ultimate Frisbee, or "Ultimate," players from all over our great land competed for positions on the U.S. team. Competition was fierce and the United States fielded a team of nineteen young men and one young woman at the tournament which was played at the beautiful National Sports Center in Blaine, Minnesota at the end of August. Blaine is a suburb on the northern edge of the Twin Cities.

"Ultimate" is a fast growing, non-contact, sport. It resembles the fast-paced action of soccer and the thrill of American football. First developed at Columbia High School in Maplewood, NJ, in 1968, Ultimate Frisbee is now played around the world. Teams representing many nations, including Canada, Great Britain, Germany, and Sweden, came to the World Championships. I must note for the RECORD, Mr. President, that the Junior World Championships have been dominated by Sweden. The Swedish team entered the 1998 World Championships with a string of World Championships dating back to 1983, interrupted only by the 1992 tournament victory of Taiwan, ROC. In light of their impressive record, Sweden understandably was seeded first, Germany second, the U.S. third. Yes, Mr. President, our team entered the world tournament as an underdog. This was particularly apt in light of the fact that several of the teams had not only practiced together, but had also played together in numerous other tournaments. In fact, several of the competing teams were even sponsored by their governments. Not so for Team USA! Our American ambassadors bought their own uniforms, paid their own ways to Minnesota and covered the expenses associated with two weeks at the National Sports Center. Even our coaches had to volunteer!

I am pleased to report that not only did the American team represent our

Nation with a great deal of enthusiasm, but they also quickly coalesced into a real team. This was essential. With less than a week of practices under its belt, the U.S. team, which had never played together before, would face the stiffest Ultimate Frisbee competition in the world.

To make a long story short, Mr. President, the U.S. Team proceeded through the first round (10 games) of the tournament undefeated, handing defending Champs Sweden their first two defeats in 6 years and soundly defeating all other competitors, including second seed Germany. Going into the semifinals, Team USA emerged as the decided favorite. It then decisively defeated Great Britain in the semifinal. On Saturday, August 22, in a game begun in a driving rain storm, Team USA won the championship game against defending Champion Sweden. Yes, Mr. President, the U.S. team prevailed. The U.S. All-Star High School Ultimate Frisbee Team won the Gold Medal.

Suffice it to say, we celebrate the great athleticism and victories of these young American athletes. We also have good cause to be proud of their great spirit as well. Spirit is very highly prized in "Ultimate," which does not field referees. To its credit, in "Ultimate," great spirit is often as prized as a great victory. In this effort, our young American athletes demonstrated that good spirit and good play are wholly compatible.

Mr. President, I rise to commend the members of the U.S. Junior National Team. Let me name each of the players and their home towns: Harper Alexander of Atlanta, Georgia; Jody Avirgan of Silver Spring, Maryland; Philip Burkhardt of Seattle, Washington; Sam Chatterton-Kirchmeier of Seattle, Washington; Jeremy Cram of Seattle, Washington; Bryan Edwards of

Seattle, Washington; Jules Hirschhorn of Amherst, Massachusetts; Pauline Lauterbach of Atlanta, Georgia; Zach Morrison of Newton, Massachusetts; Kyle Neeson of West Newton, Massachusetts; Josh Nugent of Amherst, Massachusetts; Sam O'Brien of St. Paul, Minnesota; Isaiah Robinson of Leverett, Massachusetts; Brian Rogers of Amherst, Massachusetts; Jeremy Schwartz of Scarsdale, New York; Matt Shamey of Leverett, Massachusetts; Michael Shiel of Chicago, Illinois; Jason Simpson of Decatur, Georgia; Ben Van Heuvelen of Bethesda, Maryland; and Garrett Westlake of Nashville, Tennessee. These are truly world class athletes deserving of recognition.

Team USA was led to victory by an impressive world class coaching staff. The Head Coach, Tiina Booth, has created and nurtured the Ultimate Frisbee program at Amherst Regional High School in Amherst, Massachusetts. Her Assistant Coaches were Dave "Mo" Moscoe of Boulder Creek, California, and Mike Baccarini, who coaches the Ultimate Frisbee Teams of Paideia High School near Atlanta, Georgia. Mr. President, I want to commend the coaches as well for their inspiration, hard work and tremendous contribution to the effort.

In short, Mr. President, please join me in congratulating the members and coaches of the U.S. Junior National Ultimate Frisbee Team on their victory. We are proud of you and the Gold Medal you have won for our country!•

#### ORDERS FOR MONDAY, OCTOBER 19, 1998

Mr. COCHRAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Monday, October 19, for a pro forma session only. I further ask that the Senate

then stand in recess until 10 a.m. on Tuesday, October 20, and that the time for the two leaders be reserved.

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

#### MORNING BUSINESS

Mr. COCHRAN. I further ask consent that there be a period for the transaction of morning business until 11 a.m., with Senators permitted to speak therein for up to 5 minutes each.

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

#### PROGRAM

Mr. COCHRAN. Mr. President, for the information of all Senators, the Senate will reconvene on Monday at 10 a.m. for a pro forma session only. Therefore, there will be no rollcall votes during Monday's session of the Senate. The Senate will then reconvene on Tuesday at 10 a.m. and begin a period of morning business until 11 a.m. Following morning business, the Senate is expected to begin debate on the omnibus appropriations bill. If a rollcall vote is requested on passage of the omnibus bill, that vote would occur no earlier than 5 p.m. on Tuesday. Once again, Members will be notified as to the exact voting schedule when it becomes available.

#### RECESS UNTIL 10 A.M. MONDAY, OCTOBER 19, 1998

Mr. COCHRAN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 1:02 p.m., recessed until Monday, October 19, 1998, at 10 a.m.