

MAKING APPROPRIATIONS FOR THE DEPARTMENT OF
THE INTERIOR AND RELATED AGENCIES FOR THE
FISCAL YEAR ENDING SEPTEMBER 30, 1989, AND FOR
OTHER PURPOSES

AUGUST 10, 1988.—Ordered to be printed

Mr. YATES, from the Committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 4867]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4867) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 3, 16, 19, 22, 23, 25, 26, 36, 37, 41, 48, 51, 55, 60, 64, 65, 66, 67, 70, 71, 72, 74, 75, 78, 88, 90, 96, 97, 99, 102, 111, 113, 141, 143, 144, 146, 163, 171, 174, 177, 180, 181, 183, 184, 185, 186, 187, 188, 189, 190, 194, 198, 200, 201, and 204,

That the House recede from its disagreement to the amendments of the Senate numbered 8, 17, 20, 57, 73, 79, 80, 81, 91, 101, 119, 121, 126, 133, 139, 145, 147, 160, 168, and 192, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$508,462,000; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

Amendment numbered 117:

That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *\$35,999,000*; and the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *\$37,000,000*; and the Senate agree to the same.

Amendment numbered 151:

That the House recede from its disagreement to the amendment of the Senate numbered 151, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *\$61,668,000*; and the Senate agree to the same.

Amendment numbered 161:

That the House recede from its disagreement to the amendment of the Senate numbered 161, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *\$71,553,000*; and the Senate agree to the same.

Amendment numbered 162:

That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *\$52,748,000*; and the Senate agree to the same.

Amendment numbered 164:

That the House recede from its disagreement to the amendment of the Senate numbered 164, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *\$27,373,000*; and the Senate agree to the same.

Amendment numbered 170:

That the House recede from its disagreement to the amendment of the Senate numbered 170, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *\$750,000*; and the Senate agree to the same.

Amendment numbered 175:

That the House recede from its disagreement to the amendment of the Senate numbered 175, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *\$124,300,000*; and the Senate agree to the same.

Amendment numbered 176:

That the House recede from its disagreement to the amendment of the Senate numbered 176, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *\$22,270,000*; and the Senate agree to the same.

ENERGY INFORMATION ADMINISTRATION

Amendment No. 149: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *\$62,856,000 of which \$1,000,000 for computer operations shall remain available until September 30, 1990*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment appropriates \$62,856,000 for the Energy Information Administration as proposed by the House instead of \$63,156,000 as proposed by the Senate, and provides that \$1,000,000 for computer operations shall remain available for two years instead of until expended as proposed by the Senate and one year as proposed by the House.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

Amendment No. 150: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates \$1,020,106,000 for Indian health services instead of \$1,016,667,000 as proposed by the House and \$1,014,536,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The difference from the amount provided by the House consists of increases of \$1,000,000 for hemodialysis services for the Standing Rock and Fort Berthold tribes, \$5,000,000 for the Alaska Community Health Aides program, and \$1,239,000 for the Alaska village-built clinic program; and decreases of \$1,800,000 for within grade increases, \$500,000 for regional youth substance abuse treatment centers, \$1,000,000 for the backlog of dental services, and \$500,000 for the urban health program. The funding included for the urban health program includes \$300,000 for the AIDS education and prevention initiative.

With regard to the directive to IHS to budget for and include new tribes funding rather than taking funds from existing programs, the managers agree that initial funding for a newly-recognized tribe may be provided from existing funds prior to submission of the next year's budget in which the new funding needs should be identified. The Klamath tribe should receive funding at least at the level they received in fiscal year 1988.

Within the funds provided for the alcoholism program, there is \$100,000 for fetal alcohol syndrome (FAS) research at the University of Washington. The IHS may use up to \$300,000 for a study of possible headquarters relocation. The study should include consultation with tribes, and the results should be presented to the Con-

gress and no further action taken without specific approval of the Congress.

The managers expect the Indian Health Service to submit a report by February 1, 1989, addressing the current status of the Alaska Community Health Aide program, any remaining short-falls, and the impacts thereof.

The IHS should provide funding and FTE's for the three additional positions for the Shoshone-Bannock Tribes during fiscal year 1989. The \$360,000 in sanitation funds earmarked for the Fort Berthold tribe should be provided from sanitation facilities funds, under the facilities appropriation.

With regard to the requested report due by March 1, 1989, on the proposed eligibility regulations, an interim report in December is not required.

The IHS should include in the fiscal year 1990 and future year budget justifications a table and accompanying narrative displaying the distribution of funding within the hospital and clinic programs.

INDIAN HEALTH FACILITIES

Amendment No. 151: Appropriates \$61,668,000 for Indian Health facilities instead of \$64,050,000 as proposed by the House and \$50,185,000 as proposed by the Senate. The decrease from the amount proposed by the House includes an increase of \$314,000 for renovation of a facility to provide alcohol/substance abuse treatment in Browning, MT; and decreases of \$2,646,000 for modernization and repair projects (including \$701,000 for Cass Lake, MN, \$491,000 for Whiteriver, AZ, \$1,304,000 for Keams Canyon, AZ, and \$150,000 for engineering, planning and design), and \$50,000 for planning at Montezuma Creek, UT.

Within the funds provided for sanitation facilities, the following projects should be funded: \$673,000 for water development, Rocky Boy reservation; \$2,000,000 for water supply at the Cattaraugus Reservation of the Seneca Nation; \$133,000 for Supai Village, Havasupai Tribe; \$360,000 for the Fort Berthold reservation; \$1,250,000 for Kotzebue, AK, to be matched equally by the State of Alaska; and \$75,000 for test wells, Quileute tribe.

Amendment No. 152: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that the Indian Health Service may hold not to exceed \$600,000 as a contingency for site acquisition at the Kotzebue, AK hospital.

Amendment No. 153: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *Provided further, That of funds appropriated in the fiscal year 1987 continuing resolution for the construction of detoxification facilities for Indian youth, not to exceed \$600,000 shall be made available for planning and design of a youth alcohol and substance abuse treatment facility by the Inland Tribal Consortium, to be located in the State of Washington. Provided further, That the*

Secretary of Health and Human Services may accept ownership of the buildings offered at no cost by the Gila River Indian Tribe for use solely as the Phoenix Area Regional Youth Treatment Center for Alcohol and Substance Abuse, and may use funds appropriated to the Indian Health Service in Public Law 99-591, to renovate the buildings for that purpose

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. This amendment makes available \$600,000 appropriated in fiscal year 1987 for planning and design of a youth alcohol and substance abuse treatment facility by the Inland Tribal Consortium, WA. The managers expect the IHS to report to the Appropriations Committees on the results of the planning process for this facility, including the decisions of the affected tribes with respect to the location of the facility before proceeding with expenditure of the funds.

The amendment also provides authority for the Secretary to accept ownership of buildings offered by the Gila River Tribe for use as the Phoenix Area Regional Youth Treatment Center for alcohol and substance abuse, and to use previously appropriated funds to renovate the buildings.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Amendment No. 154: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which deletes "and" and inserts "or".

The effect of this and the following amendment will be to allow tribally administered facilities to retain funds received for extending health care to non-Indians at their facilities or recovered under the Federal Medical Care Recovery Act.

Amendment No. 155: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which deletes the words "available to" and inserts "retained by".

Amendment No. 156: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: , initially filed on or after December 22, 1987, whether or not such person is an Indian or Alaska Native or is served on a fee basis or under other circumstances as permitted by Federal law or regulations

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment clarifies the managers' intent with regard to changes in the Federal Tort Claims language carried in the fiscal year 1988 Act. The managers intend that Public Law 93-638 Indian health care contractors and their employees are to be covered under the Federal Tort Claims Act even when serving non-Indians, and non-Alaska Natives, as permitted or required by Federal law and regulations, pursuant to a Public Law 93-638 contract. The managers therefore direct that, upon the request of an Indian

health care contractor, the Indian Health Service shall include a recitation of such laws and regulations in the Public Law 93-638 contract.

Amendment No. 157: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *and is further amended by adding after the word "agreement" and before the period the words "; Provided, That such employees shall be deemed to be acting within the scope of their employment in carrying out such contract or agreement when they are required, by reason of such employment, to perform medical, surgical, dental or related functions at a facility other than the facility operated pursuant to such contract or agreement, but only if such employees are not compensated for the performance of such functions by a person or entity other than such Indian tribe, tribal organization or Indian contractor"*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment further clarifies the managers' intent that Federal Tort Claims Act coverage is to cover contractor employees acting within the scope of their employment, including when such employees are required to perform medical or related functions at other facilities than the facility operated pursuant to the contract, but only if no compensation from a source other than the tribe or contractor organization is received for performing such functions.

Amendment No. 158: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which authorizes the Secretary of Health and Human Services to undertake a demonstration employee housing project at Kayenta, AZ.

As used in this language, "Federal construction standards" means those construction standards which are applied by the IHS in the construction of all IHS staff housing. The total Federal contribution to this project will be the \$200,000 Federal grant referenced in the language, and the Federal land. All work such as roads, utilities, and other site improvements will be the responsibility of the non-profit, Indian-controlled community development corporation.

Amendment No. 159: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides authorization for 170 village built clinics to be operated in Alaska.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

Amendment No. 160: Includes language proposed by the Senate which references Public Law 100-297 which amends the Indian Education Act.

INSTITUTE OF MUSEUM SERVICES

Amendment No. 176: Appropriates \$22,270,000 for grants and administration, Institute of Museum Services, instead of \$22,620,000 as proposed by the House and \$21,944,000 as proposed by the Senate.

The managers agree to the following distribution:

Operating support grants.....	\$17,700,000
Conservation grants.....	3,200,000
Program support.....	250,000
Administration.....	1,120,000
Total.....	22,270,000

Amendment No. 177: Deletes language proposed by the Senate which required the Institute of Museum Services to develop a plan, by which, within three fiscal years, each State shall receive a minimum of one-half of one per centum of the grant funds available.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Amendment No. 178: Appropriates \$1,778,000 for salaries and expenses instead of \$1,774,000 as proposed by the House and \$1,781,000 as proposed by the Senate.

The decrease to the Senate level is \$3,000 for the two less paid days in fiscal year 1989.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Amendment No. 179: Appropriates \$2,334,000 for salaries and expenses instead of \$2,343,000 as proposed by the House and \$2,311,000 as proposed by the Senate.

The net increase to the amount proposed by the Senate consists of increases of \$7,000 for office space rental costs and \$20,000 for temporary employees, and a reduction of \$4,000 for the two less paid days in fiscal year 1989.

Amendment No. 180: Appropriates \$3,175,000 for public development as proposed by the House instead of \$3,095,000 as proposed by the Senate.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

Amendment No. 181: Appropriates \$2,244,000 for the Holocaust Memorial Council as proposed by the House instead of \$2,209,000 as proposed by the Senate.

The difference from the amount proposed by the Senate consists of an increase of \$35,000 to extend the demonstration project and exhibition, "Remember the Children", through fiscal year 1989.

TITLE III—GENERAL PROVISIONS

Amendment No. 182: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds oil and gas to the minerals for which activities related to leasing in designated wilderness areas and wilderness study areas are prohibited.

Amendment No. 183: Deletes language proposed by the Senate which would have allowed subsurface oil and gas leases in wilderness study areas.

Amendment No. 184: Restores House language providing that employment funded in this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

The managers are aware of the TEAM program proposed by the Secretary of the Interior. The managers agree that the program should be implemented only on a voluntary basis and should not be used as a punitive measure. Further, participants in the program should be able to return to their original positions.

The managers are concerned that the Department of the Interior is undertaking significant relocations of employees in the last days of this administration. The managers agree that a more effective approach, both in terms of employee morale and cost, would be to wait until the next administration takes office before undertaking such reassignments.

Amendment Nos. 185-190. Restore House proposed section numbers changed by the Senate.

The managers have agreed to language in section 314 prohibiting challenges to Forest Service and BLM land and resource management plans solely on the basis that the plan is outdated or does not incorporate new information. However, the section is not intended to preclude case-by-case timber sale appeals in site-specific instances, and ensures that judicial review of these and other particular Forest Service and BLM activities shall be available.

Congress, in the exercise of its plenary authority over federal lands, has the power to limit the availability of judicial relief under substantive or procedural statutes affecting the management of those lands. While the managers do not endorse the ready use of this Constitutionally-derived power, they consider section 314 to be a necessary short term response to those challenges that have disrupted or have the potential to disrupt new management plans and timber management activities under existing plans while the new plans are being developed. The language in section 314 has been included to ensure the smooth transition of resource management activities and planning capability from one planning period to another, especially during the last stage of management under the existing plans. The managers note that this is particularly applicable in the current circumstances because both the Forest Service and BLM are within approximately 18 months of the completion and release of final land and resource management plans and environmental impact statements in Oregon and Washington.

Amendment No. 191: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Sec. 317. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands until an environmen-

tal assessment has been completed and the giant sequoia management implementation plan is approved. In any event, timber harvest within the identified groves only will be done to enhance and perpetuate giant sequoia. There will be no harvesting of giant sequoia specimen trees. Removal of hazard, insect, disease and fire killed giant sequoia other than specimen trees is permitted.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The amendment restores House language stricken by the Senate and adds language allowing the removal of dead trees, except for "specimen trees" 6 feet in diameter or larger, for human safety, protection of adjacent trees, and fire hazard reduction.

Amendment No. 192: Deletes language proposed by the House which prohibited use of funds in any workplace that is not free of illegal use or possession of controlled substances. A government-wide provision is to be included in the Treasury-Postal Service Appropriations Bill.

Amendment No. 193: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert:
SEC. 318.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The provision requires that fiscal year 1989 pay raises for programs funded in this Act be absorbed within the levels appropriated in this Act.

The managers agree that the source of funds to be used for the pay raise is to be reported to the Appropriations Committees under the reprogramming procedures.

Amendment No. 194: Deletes language proposed by the Senate extending the period in which carbon dioxide leases may be issued in the Antone Bench area in Utah by the amount of time consumed by administrative appeal, protest, or litigation.

Amendment No. 195: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 319. Notwithstanding any other provision of law, hereafter for the purposes of section 208 of title 18, United States Code, "particular matter", as applied to employees of the Department of the Interior and the Indian Health Service, shall mean "particular matter involving specific parties".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The amendment changes the Section number and inserts "hereafter" in the Senate proposed language to make permanent the definition of "particular matter" as it pertains to section 208 of title 18 of the United States Code for employees of the Department of the Interior and the Indian Health Service.

Amendment No. 196: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede