SENATE—*Monday, December 22, 1987*

(Legislative day of Tuesday, December 15, 1987)

The Senate met, at 12 noon, on the expiration of the recess, and was called to order by the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

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

Let us pray.

We know that God works in everything for good to those who love him and are called according to his purpose.—Romans 8:28.

Glory to God in the highest and on earth peace, good will toward men.—Luke 2:14.

Thank You, Gracious Father, for the accomplishments of the first session and for divine intervention even when we were not aware of it. Give to all Your servants a blessed holiday of rest and renewal with their families.

"The Lord bless you and keep you. The Lord make his face to shine upon you and be gracious unto you. The Lord lift up his countenance upon you and give you peace."—Amen

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 22, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

Mr. BYRD. Mr. President, I thank the Chair.

SENATE SCHEDULE

Mr. BYRD. Mr. President, the distinguished Republican leader and I have been discussing the call that we will be making to the President later today, in conformity with the custom, tradition, and practice, to inform the President that the Senate has completed its business and to ask if he has any further requests to make.

We have decided that we will wait until about 3:30 or 4 o'clock, because the President will not be in a position, I am told, prior to such an hour to assure us that he does not have further business and that he will sign the two big measures that were sent down yesterday—the CR and the reconciliation measure.

So, until then, we will probably stand in recess from time to time and dispose of any other business.

I yield to the distinguished Republican leader, if he has anything to say.

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

Mr. DOLE. Mr. President, I reaffirm what the majority leader has stated. I hope it is on the early side of 4. If we can do it earlier, it will be very helpful to my schedule.

In any event, we need to find out whether the President is going to sign the CR and the reconciliation. That is more important than any other schedule.

So, I will be in constant touch with the majority leader, to see what we can do.

There was one unanimous-consent request. I am not certain that it has been cleared.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I want to thank our Chaplain again. His prayer was the capstone to the session, a somewhat contentious session at times. But, overall, I think we can be thankful that it ended on a good note, a note of compromise and a willingness to work together, which I think may set a pattern, hopefully, for the year to come, in which there will be many important issues and, of course, issues that might also be contentious.

But in all of these things, we heard the sweet note that came from the Scriptures, so eloquently stated by our Chaplain. It was just the right touch, reminding us that, after all, there are higher things and things more important than the temporal and the material.

I know that all our hearts go out in gratitude for the promise, the wonderful promise, of that prayer.

Mr. President, I yield the floor.

(Mr. ADAMS assumed the chair.)

Mr. PROXMIRE. Mr. President, I join the majority leader in commending the Chaplain for his superb prayers that he has given us every morning. I have heard most of them, and they have been a source of inspiration.

I think it tells something that many of our colleagues disagree with, apparently, and that is that we have nothing to fear from prayer at the seat of Government, the very seat of Government, and we have much to learn and much that can inspire us.

NO, THE SOVIET MILITARY IS NOT 10 FEET TALL

Mr. PROXMIRE. Mr. President, the most widely accepted assumption about our national security is that the Soviet Union has conventional military forces sharply superior to ours. An article in the December issue of Arms Control Today raises serious doubts about this assumption. First, does the Warsaw Pact spend more for its military than the North Atlantic Treaty Organization [NATO]? If so, how much? In the most recent year for which data is available—1984—NATO spent $330 billion, compared to the Warsaw Pact's $294.8 billion. In an article in Arms Control Today, Peter Almquist, a staff member of the Institute for Defense Analyses, writes:

> Unless NATO expenditures are significantly less effective than those of the Warsaw Treaty Organization [WTO], which is not likely, it is not surprising that Pact planners are concerned.

So it appears that in fact, NATO spends more than 10 percent more than the Warsaw Pact. How can the pact be superior when the Soviet Union and its allies are inefficient and incompetent in every other area of competition from agriculture to scientific technology? Ah, but doesn't the pact have enormous manpower in combat divisions that could strike Western Europe in a sudden blitzkrieg attack on the central front in Europe? Almquist argues that, in fact, the Warsaw Pact does have a large number of combat divisions they can field. They have on paper 253 divisions. Of these, 173 divisions are stationed in European Russia or Eastern Europe. Of these divisions, 56 are at a high readiness level. Of those high readiness divisions, 33 could be brought to bear in a blitz attack on the European central front. And of those divisions, 21 are Soviet, 12 are

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

non-Soviet. By contrast, counting troops within the two Germanys, NATO enjoys a premobilization manpower advantage of more than 50 percent on that critical border. Furthermore, the Warsaw Pact forces suffer a weakness that could be fatal in an attack on the West. As Almquist puts it,

> At best, the Soviets would have to persuade other members of the Pact to participate in an offensive which would risk the devastation of their homelands. At worst, Soviet troops might be necessary to control their "allies" or the various national troops might find themselves dealing with active opposition in their own countries. * * * (On the other hand) the basic adherence of the Western European publics and their governments to alliance goals is not in doubt.

Mr. President, much has been made of the alleged huge advantage the Soviet Union has in tanks in Europe. Some have claimed the Soviet Union has a 5-to-1 advantage. The Soviets claim they have rough parity.

The International Institute for Strategic Studies in London gives the Warsaw Pact an advantage of 2 or 3 to 1. What's the real story? The difference lies in the aged condition of the tanks on both sides. Of the Warsaw Pact's 53,000 tanks, 33,000, or about 60 percent were designed in the 1940's and 1950's and entered into service before 1973. About 20 percent more entered into service before 1975 and were designed in the 1960's. Some of these tanks are even of World War II vintage. On the other hand, NATO actually enjoys a 3,000 tank advantage over the Warsaw Pact in tanks deployed since 1980. Also, most Soviet tanks are kept in storage and only deployed in major exercises. They are carefully watched by our intelligence. If they came out of storage and engaged in major exercises without notification during an East-West crisis, the West would quickly be on notice. NATO's antitank weapons are formidable. A recent Soviet Tactics textbook comments:

> Combat with the enemy's antitank means is acquiring decisive significance in the success of combined arms combat.

In control of the air, the pact is considered superior in numbers. But NATO has the advantage in manpower, in training, and in the quality of equipment. The defeat of Soviet planes by U.S. aircraft often in large numbers in the Middle East reflects these NATO advantages.

Almquist concludes:

> Overall, most observers consider it unlikely that the Warsaw Pact could achieve air superiority over NATO forces in the early stages of a conflict.

Mr. President, there is a common platitude in military lore that a wise military commander always reasons from a worst case scenario. He assumes that the adversary will make no mistakes, that the adversary's equipment will work perfectly, that his own forces will make blunders. This is specially true for wise military chiefs appearing before committees of the Congress, asking for appropriations from a Congress that is beleaguered by a huge budget deficit and conscious of intensive criticism of waste in military spending. The one sure way our Defense officials can appeal to the Congress for a bigger and bigger military budget is to make our prime adversary—the Soviet Union—10 feet tall. So we certainly pay full attention to the military strengths of the Warsaw Pact. But, if we are going to meet this problem honestly and effectively, we should also be fully aware of the adversary's weaknesses. This speech is intended to provide for that balance.

Mr. President, I ask unanimous consent that the article to which I have referred by Peter Almquist in the December 1987 issue of Arms Control Today be printed in the RECORD.

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

MOSCOW'S CONVENTIONAL WISDOM: SOVIET VIEWS OF THE EUROPEAN BALANCE

(Peter Almquist)

With the announcement in September that the United States and the Soviet Union would sign an agreement limiting intermediate-range nuclear forces, attention has again focused on the conventional balance of forces in Europe. Because nuclear weapons were deployed by NATO in part as a substitute for conventional weapons ("more bang for the buck"), their removal might seem to require a conventional buildup. Such a buildup could appear necessary because it is widely believed in the West that the Warsaw Pact enjoys conventional superiority in Europe. As retired U.S. Secretary of Defense Caspar Weinberger has stated, "Given current Warsaw Pact force levels massive reductions of Soviet offensive ground forces in Eastern Europe must be made just to create a balance between Pact and NATO forces."

But the Soviets are not nearly so sanguine about their conventional superiority. According to one Soviet source, Warsaw Pact data indicates that NATO enjoys a 20 percent advantage in "battle-ready divisions" and tactical aircraft, while the Warsaw Pact has "a slight advantage in armor."[1] New NATO strategic thinking and technologies are (at least in the open literature) seen by the Pact as putting into operation an aggressive strategy of "direct confrontation." As we see it, "wrote one Soviet source," the entire Central European [theater] (mainly FRG territory) has been turned into a bridgehead for attacking the countries of the socialist community using a deployed and combat-ready grouping fully supplied with the most modern combat equipment."[2] According to the U.S. Arms Control and Disarmament Agency, NATO has slightly outspent the Warsaw Pact over the last decade. According to Western estimating techniques, in the most recent year for which data is available (1984), NATO spent $330 billion, compared to the Warsaw Pact's $294.8 billion. Unless NATO expenditures are significantly less effective than those of the Warsaw Treaty Organization (WTO), which is not likely, it is not surprising that Pact planners are concerned.

MILITARY THOUGHT

While in the 1960s most Soviet military writers argued that the conventional phase of a war involving the nuclear powers would be short, with escalation a virtual certainty, by the mid-1970s they had concluded that a war could be nuclear *or* conventional, and that a conventional phase of a war could last for days or weeks. As the conventional phase became increasingly important, Soviet authors argued that the beginning period of a war could prove decisive. This new pressure mean that the transition from peace (or, more likely, crisis) to war would have to be managed as quickly and as effectively as possible. This does not mean that the Soviets have adopted a strictly defensive position. The Soviets traditionally argue that they have a *defensive* doctrine and an *offensive* strategy; that is, they say that they will not initiate a war, but that in waging war, they will strike aggressively and deeply into enemy territory. Clearly, forces optimized for an offensive strategy can be interpreted as an offensive threat.

The possibility that a war's conventional phase could be decisive led to a renewed Soviet interest in, and planning for, large-scale conventional warfare. During World War II, the highest Soviet strategic formation was the *front*, comprising four to six armies in the first echelon, with a width of 200–300 kilometers and a depth of 300–400 kilometers. Its goal was to reach an objective 100–150 kilometers into the enemy's territory in seven to 10 days.

However, fronts were not always sufficient to achieve "large-scale political-military objectives," and groups of fronts (each called a "direction" or "axis") were established. These were to be "unified by a common concept and under the unified control of the Supreme High Command."

Contemporary Soviet military planners divide Europe into two or three "threaters of military action," or TVDs, each containing a number of "strategic directions" for striking into the depths of NATO countries. The TVD commander-in-chief commands several fronts, with each front typically comprising four or five armies. For example, the Western TVD (headed by former chief of the General Staff N.V. Ogarkov) includes the Group of Soviet Forces in Germany (GSFG). The GSFG, in turn, is made up of 19 divisions organized into five armies.

These divisions are typically well equipped with up-to-date Soviet equipment (for example, the T-80 tank, 2S5 152mm gun, SS-21 tactical missile, the SA-13 air defense missile, and the MiG-29 fighter). At the same time that the TVDs were being established, the Soviet air forces were being restructured, with more tactical aircraft (for air assault and air defense) being turned over to the various military districts and TVD commands. This was done apparently to improve the coordination between tactical air, air defense, and ground forces.

In the late 1970s and 1980s, it also became apparent that the Soviet military was again interested in the potential of deep operations and "operational maneuver groups" (OMGs), units of division and larger size designed to exploit breakthroughs, penetrate deep into enemy territory, and operate with relative independence.

CHANGING TECHNOLOGY

Soviet military thinking is not all that has changed, however. Soviet procurement patterns, forces, and deployments reflect the

[1] Footnotes at end of article.

growing interest in the early conventional phase. The commander of the Western TVD, Nikolai Ogarkov, has been especially assertive in advocating the increased development of long-range, highly accurate munitions, arguing that additional nuclear weapons will do little to enhance either side's military capabilities. It would not be surprising to find that those who agree with Ogarkov see an INF agreement as a means of freeing some resources (albeit limited) for redirection to conventional improvements.

NATO thinking has evolved in a similar manner. The United States in particular has advocated an emphasis on "emerging technologies" in conventional forces. These new weapons, relying on advanced sensing, target acquisition and processing, and kill technologies, would be used to counter forces on the front and to strike deep into Warsaw Pact territory against Pact second echelon forces, airfields, and support. The Soviets refer to many of these weapons—unmanned forces able to seek out and destroy their targets—as "Reconnaissance-Strike Systems." Such weapons include the various antitank weapons under the "Assault Breaker" program or the U.S. Joint Surveillance and Target Attack Radar System (JSTARS), designed to destroy Warsaw Pack air-defense radars and systems.

The United States has been in the lead among NATO nations in developing the emphasis on striking deeper into Warsaw Pact forces to varying depths. The "AirLand Battle" doctrine provides for striking deep into Warsaw Pact territory in the event of a WTO attack. "Follow-On Forces Attack," which has been adopted by NATO as a long-term goal, calls for using conventionally armed missiles, aircraft, and artillery to strike at the second echelon of enemy forces, to a depth of 100–150 kilometers behind NATO's forward line of troops. Just as NATO is concerned about the offensive capability of the Soviet OMGs, Soviet authors are concerned about the offensive nature of both AirLand Battle and Follow-On-Forces Attack, arguing they are part of a NATO *offensive* strategy.

The Soviets see the development of conventional weapons with the potential impact on the battlefield equivalent to that of nuclear weapons as a possible new "revolution in military affairs." This is clearly one of their main concerns about the U.S. Strategic Defense Initiative: whether SDI works or not, it will mean funding, research and development in areas of the greatest Soviet weakness and which could have significant impact on the conventional land battle.

THE "CORRELATION OF FORCES"

In Soviet eyes, there are few real reasons to be extremely confident in Europe. A Soviet military planner preparing a strike against Western Europe would be hard-pressed to claim a decisive advantage in many areas. In assessing military capabilities, the Soviets place considerable emphasis on various measures of the military balance or, as they frequently refer to it, the "correlation of forces." Relying on historical and contemporary analyses, the General Staff has developed several guidelines that they consider critical in gaining the advantage in a military engagement. For example, Soviet sources suggest an advantage in artillery of 3–5:1 is needed at the breakthrough point of the main sector, 3–4:1 in tanks and self-propelled artillery, 3–4:1 in motorized rifle (mechanical infantry) battalions, and 2:1 in aircraft. Such a breakthrough sector for a front (responsible for a zone 300–400 kilometers wide) would be from 20 to 50 kilometers wide.[3]

The Soviet General Staff, however, may not have adopted a uniform line on this issue: other Soviet and Western analysts suggest that the Soviet perception of desirable force ratios for an offensive breakthrough are considerably higher than those just quoted. In one discussion of NATO conventional capabilities, a Soviet author suggested that a 6:1 advantage in "forces and facilities along narrow breakthrough sectors is seen as a decisive condition of success in an offensive" and that NATO is striving to achieve this advantage.[4] These correlations (whether to NATO or WTO advantage) need not reflect the physical presence of the equipment, but the ability to bring their firepower to bear on a particular sector through, for example, redirection of artillery fire.

These correlations refer to the areas in which the Warsaw Pact forces would be striving to break through NATO lines, that is, areas that the Soviets felt were especially vulnerable or especially valuable. Even a relatively small opening might be exploitable by an OMG. Other forces along a front would be engaged in efforts to hold down NATO forces, preventing their use to reinforce jeopardized sectors.

It should be emphasized that these correlations are not treated by the Soviets as rigid conditions necessary for war or victory, but as desirable advantages. A positive correlation can be squandered through poor planning or command, and victory can at times be achieved with an unfavorable correlation. There are regular discussions of how to measure the correlation to account for varying differences in force mixes and how best to incorporate the qualitative differences that a simple numerical count might obscure. Ultimately, the correlations indicated may only serve as a guide for force structuring in peacetime and only indicate an opportunity in the event of war.

NATO AND PACT FORCES

The heart of Soviet armed forces in Europe is the Group of Soviet Forces in Germany, comprising five armies (19 divisions) and some 420,000 men. (The regular armed forces of the GSFG's East German host total only 179,000). Each of these divisions is a Category I division; that is, it is maintained with 70–100 percent of its manpower and 100 percent of its equipment. However, one-fourth of the men in the GSFG are new recruits, cycled into the GSFG as 100,000 more experienced soldiers, whose two-year term of service has been completed, are returned to the Soviet Union. As one Western analyst noted, this rotation is like replacing six trained divisions with six untrained ones twice each year.

NATO enjoys a pre-mobilization manpower advantage of more than 50 percent on this crucial border (counting only troops within the two Germanies). Further, in the event of a WTO offensive, NATO forces would be fighting on what has become, in effect, "home turf." Much of the Western analysis of the NATO-WTO balance includes those forces deployed in three western military districts of the Soviet Union, several hundred kilometers from the inter-German border. Of these, only a small fraction (probably four of 35 divisions) are Category I, while the others would have to be brought up to readiness. Frequently missed is the potential for mobilizing trained reservists in the Federal Republic and the other NATO European countries. Mobilization would increase the West German armed forces manpower from half a million to 1.3 million in 72 hours.

Much has also been made of Soviet tank superiority in Europe and, indeed, the Soviets place great value on tank forces. But the Soviets claim "rough parity" in tanks in Europe, counting French and Spanish tanks and tanks in storage in Western Europe, though no reputable Western source agrees with this estimate. The International Institute for Strategic Studies (IISS) in London gives a WTO advantage of 2.3:1, although this includes forces in several western Soviet military districts.

NATO maintains more than 10,000 tanks in the Federal Republic of Germany alone, with another 3,700 in Britain, France, The Benelux countries, and Denmark. While IISS estimates the Soviet tank inventory at 53,000, only about 6,000–7,000 of these are deployed in East Germany. In addition, the East German armed forces have from 1,500 to 2,000 main battle tanks (and another 1,000 in storage). Soviet forces in Czechoslovakia have another 1,500 tanks and in Poland 700, with their national forces adding some 3,500 each.

It should also be noted that the Soviets are loath to dispose of potentially useful equipment, and of their 53,000 tanks, about two-thirds were designed and entered production before 1970. The Soviet inventory includes 19,900 T-54/-55s (designed in the late 1940s, produced 1948–1963); 13,000 T-62s (designed in the late 1950s, entered service 1961); 9,300 T-64s (designed in the 1960s and entered service by 1973); 8,500 T-72s (designed in the 1960s and entered service by 1975); and 1,400 of the newest T-80. Most tanks held by the Soviets' Warsaw Pact allies are T-54/-55s, designed in the 1940s and 1950s, and there are even some World War II vintage T-34s. In terms of the newest tanks, NATO actually enjoys a 3,000-tank advantage over the WTO in tanks deployed since 1980.

In addition, most Soviet tanks are kept in storage, including those of the GSFG, and are used only in major exercises. Their deployment—indeed, the undertaking of a major exercise without notification during an East-West crisis—would provide a key indicator to the West and potentially undermine any possibility of surprise.

Perhaps as troubling for Soviet planners as NATO tank forces, however, are NATO's antitank weapons. Over the last several years, the Soviets have expressed increasing concern over NATO's mobile and frequently reusable antitank guided missiles (ATGMs) and guns, capable of striking tanks at various ranges: according to a recent Soviet tactics textbooks, "Combat with the enemy's antitank means is acquiring decisive significance in the success of combined arms combat."[5]

The United States alone has 1,000 recoilless antitank guns, 600 Hellfire antitank missile launchers, 6,000 TOW launchers, and 10,000 Dragon (non-reusable) launchers. The non-U.S. NATO allies have more than 3,700 Milan ATGMs, perhaps 1,000 TOW launchers, and Dragon and HOT launchers. While the number of launchers may seem relatively small, several hundred thousand antitank *missiles,* including more than 400,000 for the TOW alone, have been produced, and these can be deployed in vehicles, on the ground, or on helicopters. The mobility and firepower of the latter in particular (such as the AH-64A Apache and AH-1SCobra) are cause of concern to the Soviets, and may have influenced their de-

velopment of both the Mi-28 Havoc and the (as yet unnumbered) Hokum helicopters. In addition, the main role of the more than 500 USAF A-10 aircraft is tank-killing.

NATO's tanks and antitank capabilities have become key targets of the Soviet Mi-24 Hind and Mi-8 Hip helicopter force. But the Soviets have had first-hand experience with the vulnerability of such helicopter forces in Afghanistan, as rebels armed with U.S.-supplied Stinger antiaircraft weapons have destroyed several. Potentially more threatening to NATO's antitank forces is the apparent deployment of reactive armor on some Soviet tanks in East Germany. Reactive armor, carried on the outside of a tank's armor, explodes outward if struck by an antitank missile, blunting the missile's ability to penetrate the tank. Reactive armor raises serious questions about NATO ability to destroy WTO tanks, but it is not a blank check for the Soviets. In particular, reactive armor is vulnerable to antitank weapons which rely on penetrating rods and perhaps to antitank missiles launched from above (such as by helicopter).

A potentially critical factor in any campaign in Europe will be control of the air and the associated ability to strike deeply into the enemy's rear. The Pact forces maintain some 2,000 counterair and 1,100 ground attack aircraft in Eastern Europe, with about 72 main operating bases situated within 800 kilometers of the inter-German border. In recent years, Soviet frontal aviation has acquired the ability to conduct deep conventional air operations.

NATO air forces are generally considered superior to those of the Pact in the key areas of manpower, training, and equipment, while the Pact is usually given the edge in numbers, both of aircraft and air defense materiel. However, analyses beyond simple "bean-counting" indicate that there are a number of factors having significant impact on the Pact's ability to generate and use its aircraft effectively (for example, readiness, maintenance, pilot training, and tactics).

In addition, the experiences of the Middle East wars have demonstrated that Soviet-supplied equipment can be defeated (sometimes in devastating numbers) through exactly those NATO advantages: superior tactics, flying, and equipment. The development of U.S. stealth technologies—for example the F-19 advanced technology fighter—may soon pose an even more severe threat to Warsaw Pact air and ground forces.

The WTO air forces can be expected to be vulnerable through attacks on ground control stations as much as through attacks on the aircraft themselves. Whether on land, sea, or in the air, the Soviet have a strong proclivity towards centralized control. This is reflected in the air forces by the reliance on tight ground-control of aircraft. A related problem that the Soviets have been concerned about in the past is the difficulty of differentiating between friend and foe. The Pact (and perhaps NATO as well, given the complexity of the problem) can be expected to be responsible for damaging some of its own air forces. Overall, most observers consider it unlikely that the Warsaw Pact could achieve air superiority over NATO forces in the early stages of a conflict.

MOBILIZATION

The Soviets recognize that mobilization is a key indicator of intentions, bordering on a declaration of war itself. The chief of the General Staff's Military Science Directorate has cautioned that "Mobilization, to say nothing of all the complex steps for strategic deployment, has always been considered tantamount to a state of war, and returning to a peaceful position is very difficult to accomplish."[6] WTO divisions are maintained at three levels of readiness. Category I can be brought to full strength in 24 hours. While only a portion of Soviet divisions are Category I, this category includes all 30 Soviet divisions stationed in Eastern Europe. Category II divisions are, it is believed, maintained at 50-75 percent strength, with full manning to take three days and possible deployment in 30 days. They have all their combat equipment, but would draw on civilian equipment for logistical support. Category III divisions are maintained at cadre strength (i.e., perhaps 10-20 percent manning), with incomplete combat equipment, typically older models. These divisions are planned to be fully manned in eight to nine weeks and deployable after 90-120 days. Only about one-fourth of the Soviet divisions are Category I, and about half are Category III. The reliance on reservists, most of whom do not know, and have never trained with, their assigned divisions, has been characterized by the U.S. Department of Defense as "probably the most significant weakness of the Soviet reserve and mobilization system . . ." Clearly, mobilization will play a crucial role in any Warsaw Pact operation.

Mobilizing for the invasion of Afghanistan took six months, according to one report. The mobilization for the invasion of Czechoslovakia took the same length of time. The apparent intention to intervene militarily in Poland in late 1980 was reportedly abandoned in part because of numerous problems mobilizing the forces in the neighboring Soviet military districts. The Soviets walk a tightrope in their planning, striving to balance surprise and mobilization. One way around this dilemma for the Soviets is to use exercises as a cover for interventions, as has been done in the past. There are, however, other indicators by which observers can distinguish a true mobilization from an exercise.

For example, indications of an imminent Polish invasion in 1980 included preparations in airfields, depots, and hospitals, and sealing off parts of the Soviet-Polish border. In addition, under the September 1986 agreement of the conference on Disarmament in Europe (CDE), the Warsaw Pact and NATO have agreed to notify each other in advance of exercises involving more than 25,000 troops, to allow observers from the other side at such exercises, and to allow short-notice challenge inspections in certain cases. These confidence-building measures make it far less feasible for either alliance to use maneuvers as a cover for a mobilization. Soviet generals must also assume that NATO would respond to a WTO mobilization with military preparations of its own, denying the Pact a one-sided advantage.

RELIABILITY OF ALLIES

In the event of a WTO attack, the Soviets would, at best, have to persuade the other members of the Pact to participate in an offensive which risk the devastation of their homelands. At worst Soviet troops might be necessary to control their "allies," or the various national troops might find themselves dealing with active opposition in their own countries. More importantly, a Warsaw Treaty Organization offensive relies very heavily on non-Soviet forces during the first 90 days after mobilization, with the contribution of the non-Soviet Warsaw Pact countries ranging from one-third to more than one-half the mobilized divisions. And there have been signs of truculence on the part of several governments of the WTO since the deployment of new soviet intermediate- and short-range nuclear-capable weapons in response to the U.S. stationing of Pershing II and ground-launched cruise missiles (GLCMs). Despite significant problems in the NATO alliance (the ongoing French refusal to participate in a unified military command, the Greek-Turkish conflict), the basic adherence of the Western European publics and governments to alliance goals is not in doubt. This cannot be said with confidence of the Warsaw Pact. Any relistic Soviet assessment of the conventional balance in Europe must factor in this essential difference between the two alliances.

LOGISTICS

A final problem that the Soviet planner undoubtedly must consider is logistics. The Soviets believe in what can be called "command-push" logistics: supplies are given first to the units which are being most successful in achieving their objectives. At the same time, they have dedicated troops to maintaining railroads and pipelines for supply purposes, part of the *tyl'* (read) under a deputy minister of defense. Soviet divisions on the offensive would consume an estimated 1,000 tons per day of stores and carry only a three- to six-day supply of necessary materiel, with an army having another one or two days' supply. Soviet stockpiles in East Germany, exclusive of those with units, reportedly allow for 37 days of ammunition and 16 days of petroleum, oil, and lubricants.[7]

While the Soviets have invested heavily in supply and logistics, the task is certainly not as easy as simply geographic proximity might suggest. Soviet trains are of a different gauge than those found in Poland, for example, and thus critical supplies would have to be unloaded and reloaded at a few key transfer points near the border. The pipelines and rail lines that the Soviets would need to resupply a WTO drive would be vulnerable and critical targets for interdiction strikes (especially as their forces attempt to advance), and the Soviet capability for airlift, independent of the vulnerability of the airfields themselves, is limited. Of course, NATO logistical problems would also be considerable, especially given that a protracted conflict might well require resupply across the Atlantic Ocean, exposing ships to the hazards of submarine warfare.

CONCLUSIONS

Prudent military analysis is too frequently interpreted to mean recognizing only the enemy's strengths and one's own weaknesses: worst-case analysis. While it is equally foolish to overemphasize an adversary's weaknesses, a balanced approach would allow for the problems faced by the Warsaw Pact as well as those NATO might face. The view from Moscow is hardly the picture of a massive Soviet-bloc advantage, as suggested by Western officials over the last several years. In the event of a war, the Soviets would strive for surprise and speed moving westward.

At the same time, they face an adversary which, in general, is technically more advanced, which spends more on military manpower and equipment, and which would have the natural advantages of the defender. Moreover, the military activities of the Warsaw Pact are watched very carefully, and preparations for war would be difficult or impossible to hide. A surprise Warsaw Pact assault from a standing start would be

extraordinarily risky, while the mobilization of forces, even under the guise of an exercise, risks both telegraphing Pact intentions and escalating an already tense situation.

Both WTO and NATO observers are aware of the Pact's strengths. Unfortunately, the West pays insufficient attention to the Pact's weaknesses.

FOOTNOTES

[1] "The Correlation of Conventional Arms and Armed Forces in Europe," *Military Bulletin*, no. 13 (19), June, 1987, pp. 7-10.

[2] V. Alekseyev, "Obychnyye voyny i formy ikh vedeniya," *Krasnaya zvezda* (Red Star), October 3, 1986, p. 3.

[3] "Lecture Materials from the Voroshilov [Soviet General Staff] Academy, Army Offensive," Quoted in John G. Hines, "Soviet Front Operations in Europe—Planning for Encirclement," in *Spotlight on the Soviet Union: A Report from a Conference at Sundvollen, Norway, April 25-27, 1985* (Oslo: Alumni Association of the Norwegian Defence College, 1986), pp. 74-101, at pp. 86, 99. The U.S. government is apparently planning to release a translation of these important notes in the near future. Other Soviet figures for the correlation have been substantially greater. Examples based on World War Two typically suggest desired correlations of 6-10:1 in artillery, 4-5:1 in tanks, and 3-5:1 in infantry. See V.G. Reznichenko, ed., *Taktika* (Tactics), (Moscow: Voyenizdat, 1984), p. 95. The U.S. Army has suggested that the Soviets seek even higher ratios of 5-10:1 in battalions, 4-10:1 in tanks, and 6-12:1 in artillery.

[4] Alekseyev, p. 3.

[5] Reznichenko, ed., *Taktika*, p. 32.

[6] M.A. Gareyev, *M.V. Frunze—Voyennyy teoretik*, (Moscow: Voyenizdat, 1985), p. 242. After the publication of this book, Gareyev was promoted to deputy chief of the General Staff.

[7] See Hugh Faringdon, *Confrontation: The Strategic Geography of NATO and the Warsaw Pact*, (London: Routledge & Kegan Paul, 1986), p. 48; and David Isby, *Weapons and Tactics of the Soviet Army*, (New York: Jane's, 1981), p. 61.

Mr. PROXMIRE. I yield the floor.

Mr. ADAMS. Mr. President, I join in the statement of the Senator from Wisconsin regarding the mutual force reduction treaty and the statement that the Senator from Wisconsin made earlier this morning with regard to the balance of force in the central portion of Europe. It is a qualitative balance and I think it is very important that we point out these facts.

This Senator hopes to join the Senator from Wisconsin and others during the course of the early part of January in pointing out the actual abilities of the NATO forces to resist pact authority attack.

I thank the President, and I yield the floor.

AUTHORITY FOR COMMITTEES TO MEET

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be permitted to meet while the Senate is in session during the 2d session of the 100th Congress for the purpose of taking testimony and considering the Treaty on Intermediate-range Nuclear Forces for as long as the treaty is pending before the committee.

I also ask unanimous consent that the Committee on Armed Services and the Select Committee on Intelligence be permitted to meet while the Senate is in session during the 2d session of the 100th Congress on the same basis as that of the Committee on Foreign Relations.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. DOLE. Mr. President, reserving the right to object, and I shall not object, I just wanted to thank the majority leader, the distinguished chairman of the Foreign Relations Committee, for his persistence. It paid off. Senator HELMS has indicated this morning through staff that he was able to contact all but one person with an objection. He would take the responsibility for that. And I want to thank the distinguished Senator from North Carolina. I think this will expedite the process of the hearings and maybe get the treaties to the floor a bit earlier. But I thank the majority leader for entering the request and the distinguished chairman, Senator PELL.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader for the efforts to which he has been put in making this arrangement. It has taken some considerable doing on his part.

Mr. PELL. Mr. President, I also would very much indeed like to thank the minority leader for the effort he made in this regard and to thank in absentia the Senator from North Carolina, Mr. HELMS, for his willingness to sign off on this. I am most appreciative and it would be appreciated by Senators on both sides of the aisle.

Mr. BYRD. Mr. President, I also thank Mr. HELMS. I know that this request reflects considerable cooperation on the part of several Senators, and Senator HELMS was able to help to achieve and secure that cooperation.

Mr. PELL. Mr. President, I thank the majority leader for making the request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Alaska.

Mr. STEVENS. Mr. President, while the distinguished chairman of the Foreign Relations Committee is here, I have an abiding interest in the ratification of the INF Treaty and I would like to inquire of him. I have heard this unanimous-consent agreement that has been entered and I did not object to it. I think it is a very good arrangement. I wonder if the chairman of the Foreign Relations Committee would tell us in view of this agreement on what day the hearings will start before the Foreign Relations Committee on the INF Treaty?

Mr. PELL. Mr. President, I thank the Senator from Alaska for his inquiry.

Originally it was our intention to start on January 19, Tuesday, following the Martin Luther King holiday. But in view of the unanimous-consent agreement we have received whereby the committee can both hear witnesses and consider the INF Treaty, it is my intention that we should come back on Monday, January 25, because we would have ample time then to meet each day right through the day when necessary.

Mr. STEVENS. Then the hearings will start on Monday, January 25?

Mr. PELL. The Senator is correct.

Mr. STEVENS. And it is my understanding then that the other committees will commence later than that. Is the Senator informed on that?

Mr. PELL. I am not informed, but I know we are in touch with Senator NUNN. I told him I would let him know when we started. He wants to start about the same time.

Mr. STEVENS. Mr. President, that is what my inquiry is about. I am one who believes that the action of the Senate on this treaty will have a great deal to do with the progress of negotiations on the second group of issues before our negotiators at Geneva. The strategic arms reduction talks and the START talks ought to go forward as rapidly as possible. I believe this is a good time, and I would have preferred to have them sooner, but I understand the problem which the chairman has encountered. So I do appreciate his stating he will start the hearing on the first day that the Senate is back in session. That is my understanding.

Mr. PELL. Yes.

Mr. STEVENS. I thank the Senator very much.

RECESS FOR 30 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of—Mr. President, to make it a little more convenient for those who have to sit at the desk, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 12:19 p.m., recessed until 12:49 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BURDICK].

JOHN NORTON'S CHRISTMAS

Mr. BYRD. Mr. President, recently I spoke of the book Holiday Tales, Christmas in the Adirondacks, by William Henry Harrison Murray. His book was published just before the turn of the century, and I quoted on that occasion the epilogue to "John Norton's Vagabond." Today I want to speak of "John Norton's Christmas" as we near the happy holidays and as we will have the time to reflect upon the true meaning of Christmas.

The poet has said the world is too much with us. Perhaps it could also be said that Christmas is too much with

us—in the commercial sense. A reading of "John Norton's Christmas" will fill us with the true spirit of Christmas, the spirit of giving, the spirit of thinking of others, those who are in need, the selfless spirit, the recollections that go back to the angels and the wise men and the star in the east and the babe wrapped in swaddling clothes.

Murray told of John Norton, the trapper, an old man who lived in a cabin, and so the scene opens with the cabin in the snow, a huge fire in the large fireplace, with two hound dogs, one sitting on each side of the hearthstone and looking placidly into the fire; John Norton with his gray hair, sitting at the table, looking at a well-worn book, with wooden covers, the pages yellowed with age, talking to himself as he read the scriptures. His reading was labored, as would be the reading of an unlearned man. And he read from the scriptures which said at that point: "Give to him that lacketh, and from him that hath not, withhold not thine hand."

And then he turned the pages to those of the New Testament which spoke of the birth of Christ and the gathering of the angels and of the babe to which the wise men had come, having been guided by the star in the east. The thought struck John Norton, the old trapper, that, after all, he had been blessed, and that over the hill was the "dismal hut" of a woman whose husband had left her with two little girls and a little boy. Norton then spoke to the hounds, one on his right and one on his left, and said that God had been good, and that, in the spirit of the scriptures and of Christmas, this being Christmas Eve, they ought to think of going the next day over the hill to the dismal hut in which the poor woman with her children lived.

So he went around the cabin, filled a packsack with tea and maple sugar and honey, a bit of pork, some venison. He heard a knock at the door, and there was Wild Bill, the vagabond, who had brought with him a sled on which there was a box.

Norton welcomed Wild Bill into his humble cabin, and together they opened the box. The box was from Henry, the son of John Norton, who had gone away to the distant city to work. In the box was a set of pantaloons, a vest, some socks, and other useful gifts which had been sent to Wild Bill. Wild Bill was quite overcome by these gifts, and so he said, "I've never been given anything by anybody. These are the first gifts that I've ever received." And so he cried, and he made an oath that he would never drink again.

They then examined the box further. They lifted out a panel, beneath which was a woman's dress, some stockings, small dresses, a jackknife, a whistle, and some mittens. These were gifts that Henry had sent to the lonely woman and her children who lived across the mountain in the dismal hut. Together, John Norton and Wild Bill planned to go the next morning to give these useful items that had been supplied by John Norton's son Henry, and that had come from John Norton's own cabin, to give these to the poor woman and her children.

Meanwhile, the woman and her three children were sitting before the fireplace in their little hut. The fire had burned low. There was not much kindling left. There were holes in the roof. The little boy asked his mother if he could have a little more to eat, and she told him that there was not much left. One of the little girls asked her mother, "Mother, isn't this Christmas Eve?" And the mother said "Yes. Go to bed." Finally, she got her three little ones huddled into the bed and she prayed to God, the God of the starving: "Do not let my children die." She made up her mind that she would go the next morning down over the hill. She had seen some tracks that had been left in the snow by a huge buck.

She arose early and tiptoed out of the house after having taken the rifle from over the fireplace, and she started out to find this deer. After a little while, she saw him coming, 40 rods away. She waited, wondering whether he would go away, turn around, or come toward her. He came toward her. When he was about 10 rods away, she pulled the trigger—and missed the deer! She fainted and dropped the rifle in the snow.

Meanwhile, upon the hill the trapper and Wild Bill had heard the shot ring out. And here came the deer with strong, long bounds, leaping up the mountainside, and Old John Norton, the trapper, dropped to his knee, put his rifle up. One shot rang out, and the buck fell in the snow.

So John Norton and Wild Bill then took the deer to the dismal hut. This would be enough food for the woman and her three children to last for weeks. Norton opened the door and there huddled in the corner were the three little children like scared animals that had been run from their nest. John Norton and Wild Bill quieted the fears of the children, went out and got some wood, built a big fire, and to make a long story short, they prepared dinner, as we call it out in the country. Here in the Capitol, it would be called lunch.

They prepared this huge dinner—potatoes, parsnips, deer. They had deer fixed in several different ways. They were good chefs because we must remember that John Norton and Wild Bill lived out in that isolated area of the Adirondacks, an old trapper who did his own cooking and salted his own salmon, packed down his own pork and venison. So they had this huge fire going, and the pot boiling.

And the woman returned and opened the door to the cabin. And she wondered if these were angels who had come to her humble hut. They had fixed the roof. They cleaned out the deer, had it hanging out to dry, part of it cooking on the fireplace, and the tea was hot.

John Norton and Wild Bill gave to the woman the gifts that had been sent by Henry, and some of which had come from John Norton's own store of victuals in his humble cabin. So they made it a happy Christmas for this poor woman and her children. The little boy ran around and showed his new suit to his sisters at least 100 times. And the children skipped around and sang. Then in the afternoon late John Norton made his way back to his own little cabin.

One can imagine the feeling of satisfaction that must have been in John Norton's heart because he knew that he and Wild Bill had made this poor woman and her little children happy on Christmas day, that indeed he and Wild Bill had spent the day in the way that he believed Christmas day should best be spent—thinking of others, serving others, giving to others, sacrificing for others, those less fortunate than even he.

So here was this grizzled old rough trapper who was used to living out in the forest, living alone, his son had gone off to work, his wife had passed on. My, what a feeling that must have been in his heart! And what a joy that Christmas day must have been to that poor mother whose cupboard was bare, whose children were hungry and cold, whose cabin was almost without warmth. And how God had sent these angels, two hearty backwoodsmen, trappers, hunters, to the home when the ne'er-do-well husband, whose duty was to have been there, was elsewhere.

The final scene shows John Norton twining a wreath out of green branches. The two hounds are sitting by the fire. Then John twines a second wreath. As he twines these branches he looks from time to time at two pictures on the wall. One, the picture of Henry; the other the picture of his absent companion who had gone on before to her eternal reward. As he twined those wreaths he would look at those two reminders of the absent loved ones and he would say, "I miss them so."

The epilogue to John Norton's Christmas then was as follows:

Ah, friend, dear friend, when life's glad day
with you and me is passed,
When the sweet Christmas chimes are rung
for other ears than ours,
When other hands set the green branches
up, and other feet glide down the polished floor,

May there be those still left behind to twine us wreaths, and say, "We miss them so!"

And this is the way John Norton the trapper kept his Christmas.

RECESS UNTIL 3:30 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 3:30 p.m. today.

There being no objection, at 1:08 p.m. the Senate recessed until 3:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. PRYOR].

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AUTHORITY TO MAKE CERTAIN APPOINTMENTS AFTER THE SINE DIE ADJOURNMENT OF THE PRESENT SESSION

Mr. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The resolution (S. Res. 352) was read, considered by unanimous consent, and agreed to, as follows:

S. RES. 352

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, and the Deputy President of the Senate pro tempore be, and they are hereby, authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

NOTIFICATION TO THE PRESIDENT CONCERNING THE PROPOSED ADJOURNMENT OF THE SESSION

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

S. RES. 353

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join a similar committee of the House of Representatives to notify the President of the United States that the two Houses have completed their business of the session and are ready to adjourn unless he has some further communication to make to them.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

The PRESIDING OFFICER. The Chair appoints the majority leader and the minority leader as members of the committee to inform the President of the United States that the two Houses have completed their business of the session and are ready to adjourn, unless he has some further comunication to make to them.

HOUSE JOINT RESOLUTION 436—PROVIDING FOR CONVENING OF THE 2D SESSION OF THE 100TH CONGRESS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on House Joint Resolution 436.

The PRESIDING OFFICER. The joint resolution will be stated.

The legislative clerk read as follows:

H.J. RES. 436

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the second regular session of the One Hundredth Congress shall begin at 12 o'clock meridian on Monday, January 25, 1988.

SEC. 2. That prior to the convening of the second regular session of the One Hundredth Congress on January 25, 1988, as provided in section 1 of this resolution, Congress shall reassemble at 12 o'clock meridian on the second day after its Members are notified in accordance with section 3 of this resolution.

SEC. 3. The Speaker of the House and the majority leader of the Senate, acting jointly after consultation with the minority leader of the House and the minority leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 436) was ordered to a third reading, was read the third time, and passed.

HOUSE CONCURRENT RESOLUTION 235—SINE DIE ADJOURNMENT OF THE TWO HOUSES

Mr. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House on House Concurrent Resolution 235.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The legislative clerk read as follows:

H. CON. RES. 235

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall adjourn on Tuesday, December 22, 1987, and that when they adjourn on said day, they stand adjourned sine die.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The concurrent resolution (H. Con. Res. 235) was considered and agreed to.

RECESS UNTIL 4:10 P.M. AND THEN SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes and then that it stand in recess awaiting the call of the Chair.

There being no objection, the Senate at 3:40 p.m., recessed until 4:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. PRYOR].

The PRESIDING OFFICER. The majority leader.

MISSION FULFILLED

Mr. BYRD. Mr. President, the distinguished Republican leader and I have fulfilled our mission as given to us by the Chair. We called on the President of the United States and told him that the Senate had completed its business for the first session of the 100th Congress and was prepared to adjourn sine die. We inquired as to whether or not he had any further business that he wished to have us transact.

He informed us that he had just completed signing the continuing resolution and the reconciliation bill. He made some upbeat comments about the way we have been able to work out our differences toward the end of the session with regard to these two important bills making significant reductions in the budget deficit.

We indicated to him that we felt we had set a benchmark by way of cooperation on working together in a spirit of good will and that by doing this we had produced a difficult and complex legislation out of contentious moments.

We stated that, likewise, we looked forward to the next year and we were going to put in the President's Christmas stocking some goodies; for example, a new Supreme Court Justice; in all likelihood an INF Treaty. And we looked to the forthcoming year, wishing for the President and Mrs. Reagan a very pleasant and happy holiday season.

I yield to my Republican friend.

Mr. DOLE. Mr. President, I will just add that the President thanked the distinguished majority leader for his leadership. I believe he had to be particularly pleased with the Senate leadership, particularly the majority leader's leadership, because we did it on the Senate side. I have no quarrel with anyone else, but we tried to stick with the agreement. We made it. Our representatives were there. We did not know precisely everything they knew, but I think by and large the Senate performed very well.

The President appreciated that and said so in his statement. We are

pleased that the President is pleased, and pleased he signed the two bills.

I think, as the distinguished majority leader said, there are a couple of good things coming up for the President: The Supreme Court nominee, Judge Kennedy, which looks like it is on track; the INF Treaty hearings, which will start January 25, and there is a lot of support for that treaty. So I think it is going to be a pretty good year.

I thank the majority leader.

Mr. BYRD. I thank the Republican leader.

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, we also promised the President one final little goodie before we go out, and that is a bloc of nominations on the Executive Calendar, one being that of Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Austria, Henry Anatole Grunwald.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, to carry out that promise I referred to, I ask unanimous consent that the Senate go into executive session to consider that nomination under the Department of State on page 2 of the Executive Calendar.

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

The clerk will state the nomination.

DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of Henry Anatole Grunwald, of New York, to be Ambassador Extraordinary and Plentipotentiary of the United States of America to the Republic of Austria.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOREIGN SERVICE

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of nominations placed on the Secretary's desk in the Foreign Service, page 3 of the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the nominations.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

The assistant legislative clerk read the nominations placed on the Secretary's desk in the Foreign Service.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nominations were confirmed en bloc.

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I move that the President be immediately notified of the confirmation of the nominees.

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

STATUS OF PENDING NOMINATIONS

Mr. BYRD. Mr. President, I ask unanimous consent to modify that portion of the previously-entered agreement relating to the status of pending nominations: Under the Department of State, only the following nominations to be returned: Richard Noyes Viets, Charles Franklin Dunbar, April Catherine Glaspie, Milton Frank, and Bill K. Perrin, and that all other Department of State and Foreign Service officer nominations remain in status quo.

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

LEGISLATIVE SESSION

Mr. BYRD. I now ask, Mr. President, unanimous consent the Senate return to legislative session.

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

COMMERCIAL FISHING INDUSTRY VESSEL ANTI-REFLAGGING ACT OF 1987

Mr. BYRD. Mr. President, I believe that the distinguished Senator from Alaska has through the art of persuasion and with his usual persistence prevailed in the matter of H.R. 2598. I ask that the Chair lay before the Senate a message from the House on H.R. 2598.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the title of the bill (H.R. 2598), entitled "An Act entitled the 'Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987'.".

Resolved, That the House agree to the amendment of the Senate to the text of the aforesaid bill with the following amendment: In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987".

SEC. 2 VESSELS OF THE UNITED STATES.

Section 3(27) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(27)) is amended to read as follows:

"(27) The term 'vessel of the United States' means—

"(A) any vessel documented under chapter 121 of title 46, United States Code;

"(B) any vessel numbered in accordance with chapter 123 of title 46, United States Code and measuring less than 5 net tons;

"(C) any vessel numbered in accordance with chapter 123 of title 46, United States Code and used exclusively for pleasure; or

"(D) any vessel not equipped with propulsion machinery of any kind and used exclusively for pleasure.".

SEC. 3. RECONSTRUCTION REQUIREMENTS.

Title 46, United State Code, is amended as follows:

(1) Item 12101 of the analysis of chapter 121 is amended to read as follows:

"12101. Definitions and related terms in other laws.".

(2) The caption of section 12101 is amended to read as follows:

"§ 12101. Definitions and related terms in other laws".

(3) Section 12101 is amended by—

(A) designating the existing text as subsection (b);

(B) striking paragraph (6); and

(C) inserting a new subsection (a) before subsection (b) (as designated by this section) as follows:

"(a) In this chapter—

"(1) 'fisheries' includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the exclusive economic zone.

"(2) 'rebuilt' has the same meaning as in the Second Proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883).".

(4) Section 12108(a) is amended by—

(A) at the end of paragraph (2)(B), strike "and";

(B) redesignating paragraph (3) as (4); and

(C) inserting after paragraph (2) a new paragraph (3) that reads as follows:

"(3) if rebuilt, was rebuilt in the United States; and".

(5) Section 12108(c)(2) is amended by striking "built in the United States" and substituting "built or rebuilt in the United States".

SEC. 4. SAVINGS CLAUSE.

(a) Notwithstanding the requirements of section 12108(a) (2) and (3) of title 46, United States Code, a fishery license may be issued to a vessel that before July 28, 1987—

(1)(A) was documented under chapter 121 of that title; and

(B) was operated as a fish processing or fish tender vessel in the navigable waters of the United States or the exclusive economic zone;

(2) was a fish tender or fish processing vessel contracted to be purchased by a citizen of the United States, if the purchase is shown by contract or similarly reliable evidence acceptable to the Secretary to have

been made for the purpose of using the vessel as a fish tender or fish processing vessel in the fisheries;

(3) was documented under chapter 121 of that title and—

(A) was rebuilt in a foreign country; or

(B) is subsequently rebuilt in the United States for use as a fish processing vessel; or

(4) was built in the United States and—

(A) is rebuilt in a foreign country under a contract entered into before 6 months after the date of enactment of this Act, and was purchased or contracted to be purchased before July 28, 1987 with the intent that the vessel be used in the fisheries, if that intent is evidenced by—

(i) the contract itself; or

(ii) a ruling letter by the Coast Guard before July 29, 1987 under 46 C.F.R. § 67.21-1 or § 67.27-3 pursuant to a ruling request evidencing that intent; or

(B) is purchased for use as a fish processing vessel under a contract entered into after July 27, 1987, if—

(i) a contract to rebuild the vessel for use as a fish processing vessel was entered into before September 1, 1987; and

(ii) that vessel is part of a specific business plan involving the conversion in foreign shipyards of a series of 3 vessels and rebuilding work on at least one of the vessels had begun before July 28, 1987.

(b) A vessel rebuilt under subsection (a)(3)(B) or (4) of this section must be redelivered to the owner before July 28, 1990. However, the Secretary may, on proof of circumstances beyond the control of the owner of a vessel affected by this section, extend the period for rebuilding in a foreign country permitted by this section.

(c)(1) Any fishery license or registry issued to a vessel built in a foreign country under this section shall be endorsed to restrict the vessel from catching, taking, or harvesting.

(2) Before being issued a fishery license, any vessel described in subsection (a)(2) of this section must be documented under an application for documentation acceptable to the Secretary filed before July 28, 1987.

SEC. 5. MANNING REQUIREMENTS.

(a)(1) Section 8103(a) of title 46, United States Code, is amended by inserting "radio officer," after "chief engineer,".

(2) Section 8103(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) Except as otherwise provided in this section, on a documented vessel—

"(A) each unlicensed seaman must be a citizen of the United States or an alien lawfully admitted to the United States for permanent residence; and

"(B) not more than 25 percent of the total number of unlicensed seamen on the vessel may be aliens lawfully admitted to the United States for permanent residence.

"(2) Paragraph (1) of this subsection does not apply to—

"(A) a yacht;

"(B) a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)); and

"(C) a fishing vessel fishing outside of the exclusive economic zone.

"(3) The Secretary may waive a citizenship requirement under this subsection, other than a requirement that applies to the master of a documented vessel, with respect to—

"(A) an offshore supply vessel or other similarly engaged vessel of less than 1600 gross tons that operates from a foreign port;

"(B) a mobile offshore drilling unit or other vessel engaged in support of exploration, exploitation, or production of offshore mineral energy resources operating beyond the water above the outer Continental Shelf (as that term is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)); and

"(C) any other vessel if the Secretary determines, after an investigation, that qualified seamen who are citizens of the United States are not available.".

(3) Paragraph (2) of this subsection is effective 30 days after the date of the enactment of this Act.

(b) Subsection (c) and (d)(1) of section 8103 of title 46, United States Code, are each amended by striking "from the United States".

(c) Section 8103(e) of title 46, United States Code, is amended—

(1) by inserting "and the radio officer" after "the master"; and

(2) by striking "until the vessel's first return to a United States port at which" and substituting "until the vessel's return to a port at which in the most expeditious manner".

(d)(1) Section 8103 of title 46, United States Code, is amended by adding at the end the following:

"(i)(1) Except as provided in paragraph (3) of this subsection, each unlicensed seaman on a fishing, fish processing, or fish tender vessel that is engaged in the fisheries in the navigable waters of the United States or the exclusive economic zone must be—

"(A) a citizen of the United States;

"(B) an alien lawfully admitted to the United States for permanent residence; or

"(C) any other alien allowed to be employed under the Immigration and Naturalization Act (8 U.S.C. 1101 et seq.).

"(2) Not more than 25 percent of the unlicensed seamen on a vessel subject to paragraph (1) of this subsection may be aliens referred to in clause (C) of that paragraph.

"(3) This subsection does not apply to a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)).".

(2) This subsection is effective 360 days after the day of the enactment of this Act.

(e) Section 8702(b) of title 46, United States Code, is amended by striking "depart from a port of the United States" and substituting "operate".

(f)(1) Chapter 87 of title 46, United States Code, is amended by adding at the end the following new section:

"§ 8704. Alien deemed to be employed in the United States

"An alien is deemed to be employed in the United States for purposes of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) if the alien is an unlicensed individual employed on a fishing, fish processing, or fish tender vessel that—

"(1) is a vessel of the United States engaged in the fisheries in the navigable waters of the United States or the exclusive economic zone; and

"(2) is not engaged in fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).".

(2) The table of sections at the beginning of that chapter is amended by adding at the end the following new item:

"8704. Alien deemed to be employed in the United States.".

(3) With respect to an alien who is deemed to be employed in the United States under section 8704 of title 46, United States Code (as amended by this subsection), the term "date of the enactment of this section" as used in section 274A(i) of the Immigration and Nationality Act means the date 180 days after the enactment of this section.

SEC. 6. CONFORMING PROVISIONS.

(a) Title 46, United States Code, is amended as follows:

(1) Section 2101 is amended by adding after paragraph 10 the following new paragraph:

"(10a) 'Exclusive Economic Zone' means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983.".

(2) Section 12106(b) is amended to read as follows:

"(b) Subject to the laws of the United States regulating the coastwise trade, only a vessel for which a coastwise license or an appropriately endorsed registry is issued may be employed in the coastwise trade.".

(3) Section 12106 is amended by inserting a new subsection (d) after subsection (c) as follows:

"(d) On application of the owner of a vessel that qualifies for a Great Lakes license under section 12107 or a fishery license under section 12108 of this title, the Secretary may issue an endorsement authorizing the vessel to be employed in the Great Lakes trade or fisheries, as the case may be.".

(4) Section 12107(b) is amended—

(A) after the semicolon at the end of paragraph (1) by inserting "and";

(B) in paragraph (2) by striking "Canada; and" and substituting "Canada."; and

(C) by striking paragraph (3).

(5) Section 12107 is amended by inserting a new subsection (c) after subsection (b) as follows:

"(c) On application of the owner of a vessel that qualifies for a coastwise license under section 12106 or a fishery license under section 12108 of this title, the Secretary may issue an endorsement authorizing the vessel to be employed in the coastwise trade or the fisheries, as the case may be.".

(6) Section 12108 is amended by adding a new subsection (d) after subsection (c) as follows:

"(d) On application of the owner of a vessel that qualifies for a coastwise license under section 12106 or a Great Lakes license under section 12107 of this title, the Secretary may issue an endorsement authorizing the vessel to be employed in the coastwise trade or the Great Lakes trade, as the case may be.".

(b) Notwithstanding the requirements of chapter 121 of title 46, United States Code, a vessel for which a coastwise, Great Lakes, or fishery license, or an appropriately endorsed registry, was issued before July 28, 1987, may continue to be employed in the specified trades for which it was qualified at the time the license or registry was issued for one year from date of enactment or until the certificate of documentation is renewed, whichever comes later. On renewal, the owner or master of a documented vessel shall make the vessel's certificate of documentation available as the law or Secretary may require for replacement with an appropriately endorsed certificate.

(c)(1) Section 27 of the Merchant Marine Act, 1920, (46 App. U.S.C. 883), is amended

after "vessel" in the Second Proviso by striking "of more than five hundred gross tons".

(2) Paragraph (1) of this subsection does not apply to a vessel under contract to be purchased or rebuilt entered into before July 28, 1987, if that vessel is rebuilt before July 28, 1990.

(3) The Secretary, on proof of circumstances beyond the control of the owner of a vessel affected by this section, may extend the period for rebuilding in a foreign country permitted by this section.

(d) The terms in this Act have the same meaning as in subtitle II of title 46, United States Code (as amended by this Act).

SEC. 7. AMERICAN CONTROL OF VESSELS.

(a) Section 12102 of title 46, United States Code, is amended as follows:

(1) by inserting "(a)" before "A vessel";

(2) by adding at the end the following:

"(b)(1) A vessel owned by a corporation is not eligible for a fishery license under section 12108 of this title unless the controlling interest (as measured by a majority of voting shares in that corporation) is owned by individuals who are citizens of the United States. However, if the corporation is owned in whole or in part by other United States corporations, the controlling interest in those corporations, in the aggregate, must be owned by individuals who are citizens of the United States.

"(2) The Secretary shall apply the restrictions on controlling interest in section 2(b) of the Shipping Act, 1916 (46 App. U.S.C. 802(b)) when applying this subsection.".

(b) Section 12102(b) of title 46, United States Code (as enacted by subsection (a) of this section) applies to vessels issued a fishery license after July 28, 1987. However, that section does not apply if before that date the vessel—

(1) was documented under chapter 121 of title 46 and operating as a fishing, fish processing, or fish tender vessel in the navigable waters of the United States or the Exclusive Economic Zone; or

(2) was contracted for purchase for use as a fishing, fish tender, or fish processing vessel in the navigable waters of the United States or the Exclusive Economic Zone, if the purchase is shown by the contract or similarly reliable evidence acceptable to the Secretary to have been made for the purpose of using the vessel in the fisheries.

SEC. 8. STUDIES.

(a) Section 4311(a) of the Revised Statutes of the United States (46 App. U.S.C. 251(a)) is amended by adding at the end the following:

"The Secretary of Commerce may issue any regulations that the Secretary considers necessary to obtain information on the transportation of fish products by vessels of the United States from foreign fish processing vessels to points in the United States."

(b) Within 6 months after the date of enactment of this Act, the Secretary of Commerce shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives, setting forth—

(1) an evaluation of the potential impact, on the development of the United States fishing industry, of the transportation of fish products by vessels of the United States from foreign fish processing vessels to points in the United States; and

(2) recommendations, if any, for legislation or other action to regulate that transportation of fish products in a manner most beneficial to the future development of the United States fishing industry.

(c) Within 6 months after the date of enactment of this Act, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives, a report discussing the trends in the development of fishery resources under the exclusive fishery management authority of the United States as specified in section 101 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811) and analyzing the effects of those trends on the United States fishing industry and the conservation and management of those resources. The Secretary shall include in the report—

(1) an evaluation of the extent to which the development of domestic harvesting and processing capacity has been or is likely to be affected, if at all, by this Act;

(2) an evaluation of the extent to which harvesting vessels currently engaged in joint venture operations with foreign vessels have been or are likely to be affected, if at all, by this Act; and

(3) any other matters relating to fishery development, including recommendations for legislation or other action, that the Secretary considers appropriate.

SEC. 9. ISSUANCE OF CERTIFICATES OF DOCUMENTATION

Notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for each of the following vessels:

(1) the Electra (United States official number 230024).

(2) the Barlovento (United States official number 231569).

(3) the Tie One On (United States official number 924056).

(4) the White Seal (United States official number 514961).

(5) the Laura Beth (United States official number 676614).

(6) the Rondo (Hawaiian Registration number 7678D).

(7) the Tropical Princess (Hawaiian Registration number 6557D).

(8) the Port Pacer II (Wisconsin Registration number 1747KC).

Mr. STEVENS. Mr. President, I am grateful to my two good friends, the leaders, for permitting us to call this matter up at this time. This has been a very vexatious thing for us. Each time the Congress has adjourned, we have put into place a moratorium on this reflagging issue and this time the House refused to do that. Instead, they have insisted on their date for the reflagging issue. While this bill is not totally acceptable to the Senate, and many of the members of the Commerce Committee are in disagreement with it, they have all agreed with me that we cannot leave this issue dangling, that we must act. As I indicated, I am grateful to everyone for understanding the situation. We will address the issue, again, however, Mr. President.

I move the Senate concur in the House amendment to the Senate amendments.

The motion was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

BICENTENNIAL MINUTE

DECEMBER 24, 1847: SENATOR JOHN FAIRFIELD DIES

Mr. DOLE. Mr. President, the Senate, throughout its history has customarily found itself in session during the winter holiday season when Members would wish to be spending time with their loved ones. On December 24, 1847, 140 years ago this week, freshman Maine Senator John Fairfield, a man of exceptional promise, died suddenly. His unexpected death, as a consequence of a minor operation, was apparently due to the bungling or quackery of the surgeon.

Back in Maine, his family, to whom he was devoted, was unaware of this sad turn of events. On Christmas Eve, his wife and children eagerly awaited his arrival. Among the Senator's chief legacy to us today are the warm, almost daily letters he sent home to his family from the time he first arrived in Washington as a Representative in 1835. These letters, in their published form, contribute greatly to our knowledge of Washington life in the 1830's and 1840's. From them we learn that Fairfield experienced particular frustration at being separated from his family throughout the legislative year. After his struggles to find a reasonably priced boarding house in the capital, he wrote his wife, "I had no idea before being put to the trial how hard it would be for me to quit you and ours." He had barely arrived in Washington as a new Member when news reached him of the early birth of his third son, and he wrote his wife of his sorrow at not being by her side.

Fairfield was born in Maine in 1797. After attending Bowdoin College, he had embarked on a promising legal career. Twice elected to the House, he resigned in 1838 to become Governor of Maine. He resigned that position in 1843 to become a Senator. At the time of his death, the Maine Senator was being watched closely by the senior members of his party as a potential leader. Fairfield had written movingly of his colleagues who died in office, and he attended each funeral. Now it was his colleagues' turn to inform Mrs. Fairfield of her husband's untimely death in office at the age of 50.

THE CONTINUING RESOLUTION

Mr. ADAMS. Mr. President, this bill appropriates over $600 billion to fund the operations of the Government. On a purely numerical accounting, it hardly makes sense to vote against this legislation on the basis of a $9 million appropriation. But that is what I intend to do.

That $9 million will go to fund the Contras. This money will not just be used for "humanitarian" or "nonlethal" aid. It will be used to transport the guns and ammunition which will be used to kill more innocent civilians. It will be used to support operations which threaten to undermine a fragile peace process in the region. It will be used to continue a policy which is morally bankrupt and legally suspect.

The President of the United States has indicated that he will veto any bill which does not contain funding for the Contras. His willingness to put the continued operation of the U.S. Government at risk in order to fund the Contras demonstrates his priorities and values. They are the same priorities and values which guided us when we mined the harbors in Nicaragua and led to the Iran-Contra affair. The only difference is that then the administration acted secretly and here it is operating openly. I didn't like it when this policy was implemented secretly and I don't like it—and cannot approve of it—when it is out in the open.

Some say that voting against this bill is just symbolism. I disagree. I believe that if we reject this continuing resolution we can adopt another one which funds needed programs while eliminating Contra funding. If I am wrong, and this is nothing more than a symbolic act, then I want to cast my vote for the symbols which have always guided this Nation: a desire for peace, a respect for law, and a recognition of the right of all people to determine their own destinies.

TAXATION OF COOPERATIVES' BUSINESS PROPERTY

Mr. DURENBERGER. Mr. President, it has come to my attention that a situation has developed which has caused great concern to farm cooperatives; namely, the tax treatment of business assets used in their operations. The cooperatives' concerns relates to how the gains and losses from the operation and disposition of such assets should be treated. Simply stated, the issue is whether the income or loss is to be apportioned ratably on a patronage basis among the cooperatives' members and nonmembers, or whether the income or loss should be treated as incidental, or nonpatronage sourced, income considered not to be derived from the organization's business conducted with or for members and patrons.

It appears that the manner in which the income of cooperatives should be taxed, either to the cooperative or to its patron membership on a single tax basis, involves basic issues that were addresed when subchapter T was enacted in 1962. However, if uncertainty still remains as to how cooperatives' asset dispositions should be taxed I believe it is preferable that Congress should address these matters rather than leaving them for resolution by the administrative process.

Cooperatives operate conceptually as conduits respecting patronage operations on behalf of members, and the basic concepts which should govern cooperative taxation should complement and recognize this basic single tax characteristic. Recent decisions by the Internal Revenue Service appear to depart from this concept, and if not altered, could cause substantial hardship for many thousands of farmer-producer members and patrons who have recently encountered severe operating losses from which they have been and are now, struggling to recover.

I believe the most preferable course of action would be to resolve this business property treatment question this year. Although I would have been willing to offer amendatory language that would resolve this issue, the distinguished chairman of the Senate Finance Committee, Senator BENTSEN, advised me that the constraints on the budget process resulting from the Budget Summit precluded committee action this year. Therefore, I would appreciate if the distinguished chairman of the Finance Committee would confirm my understanding that he is willing to review this question next year.

Mr. BENTSEN. I appreciate the efforts of the Senator from Minnesota [Mr. DURENBERGER] in bringing this issue before the body, and I share his deep concern for the many farmers and ranchers, including a number in my home State of Texas, who are members of and are served by agricultural cooperatives. These agricultural coperatives have experienced the same severe financial strains that their members have suffered under, and I have no wish to see them unfairly burdened with tax controversies.

However, the choice is not mine to make. We were unable even to consider proposals such as this on this bill. The White House insisted that the revenue cap in the recent budget summit agreement be based on gross, not net, revenues. I opposed that, but the White House was insistent. As a result of that decision, it was extremely difficult to include provisions that do not raise revenue on this bill, however meritorious they may be. That approach eliminated any possiblity of including many other tax provisions of great importance to agriculture.

I will be glad to work with the Senator from Minnesota to see that this issue is brought before the Finance Committee next year. I appreciate his not having pressed this issue in consideration of the limitations within which we have been constrained to work to put together the revenue portion of this budget package.

THE TAX TITLE OF H.R. 3545, THE BUDGET RECONCILIATION ACT

Mr. BENTSEN. Mr. President, I have received a number of inquiries from my colleagues as to the proper interpretation of some of the tax provisions contained in the reconciliation act. I would like to address those questions.

First, the Senator from Oklahoma [Mr. BOREN] has made an inquiry concerning the binding contract rule to the so-called mirror transaction provision of the bill. The conference adopted the Senate's transition rule to that provision. Senator BOREN has asked me to clarify the transition relief by confirming several points about the rule.

First, he has asked me to confirm that a binding contract exists when the boards of directors of both the acquiring and target corporations have approved the acquisition agreement prior to December 15 even though it is subject to subsequent shareholder approval. Second, he has asked me to confirm that, in these circumstances, the ultimate acquisition is to be considered as having been completed pursuant to such binding contract even though such binding contract was subject to normal commercial contingencies—such as financing, regulatory approval, due diligence, et cetera—and even if the final terms of the actual acquisition agreement vary from the binding contract as a result of such contingencies. Finally, Senator BOREN has asked me to confirm that the ultimate acquisition is also to be considered as having been completed pursuant to such binding contract even though subsequent to December 15, board approval or ratification is obtained due to changes to the terms resulting from such normal commercial contingencies.

I would like to assure Senator BOREN and other interested Senators that while other circumstances not described could also be covered, in the circumstances described, a contract would be considered fully binding for purposes of the mirror transaction provision in the bill.

MASTER LIMITED PARTNERSHIPS

I have also received several inquiries regarding the provision that would tax certain publicly traded partnerships as corporations. Under the conference agreement, a publicly traded partner-

ship that does not derive 90 percent or more of its income from passive-type activities will be taxed as a corporation beginning after December 31, 1987. However, the conference agreement provides transition relief for existing publicly traded partnerships, and for other partnerships that have already taken steps to be created and that will be publicly traded. Under this transition relief, a partnership will continue to be taxed as a partnership until the first taxable year beginning after December 31, 1997, unless the partnership adds a substantial new line of business during that period.

I have been asked to clarify the meaning of the addition of a substantial new line of business. First, I would like to clarify that as long as the partnership is currently engaged in an activity, there is no requirement that the activity be specifically identified in the existing filings with the Securities and Exchange Commission.

I would also like to clarify that under the conference agreement, if a partnership's existing line of business includes servicing mortgages that it or a related entity originates, and the partnership intends to expand these activities to include servicing mortgages originated by unrelated institutions, this would be considered the expansion of an existing line of business and not the addition of a substantial new line of business, even though its current SEC filings may not describe this expansion.

Finally, I would like to clarify the definition of passive type income. Under the conference agreement, income of a partnership from the purchase, transportation, storage, distribution, and retail and wholesale marketing of liquified petroleum gas—primarily propane—and other oil and gas products is passive-type income, even though such products are transported in trucks and rail cars that are owned or leased by the partnership and transported by third party pipelines with which the partnership contracts for transportation.

MORTGAGE REVENUE BOND

Mr. BYRD. Mr. President, I would like to address the Chairman of the Senate Finance Committee on a matter that is most urgent to moderate-income potential first-time homebuyers in many States. The Tax Reform Act of 1986 imposed a certain level of targeting on loans that could be made through the Mortgage Revenue Bond Program, and through the current refunding of outstanding mortgage revenue bonds. I am deeply concerned about the transition of current refunding bonds into compliance with the act.

I must point out that the technical corrections bill passed by the House of Representatives would in fact create a hardship on West Virginians as well as other Americans. In the technical corrections bill reported by the Finance Committee on October 16, 1987, a reasonable period for transition was provided. The new rules applied only to refunding bonds issued after October 16, 1987. This gave due notice to issuers and lenders on this issue, without penalizing those potential homebuyers whose loans were already in process.

Mr. Chairman, my concern is that the House version of the technical corrections legislation contains language which would require that any loan made after December 31, 1987, must comply with the new targeting limits. In view of this language, efforts are under way in my State to close those loans, so that the affected families would have made their home purchase by December 31, 1987. Yet, there may not be enough time to complete the paper work on each transaction to complete the purchase of the loan by the bond issuing agency. It is critical that the effective date for targeting apply when the homebuyer becomes a homeowner. I ask you to use your persuasive power with the House to insist upon the basic approach outlined in the Finance Committee version of the Technical Corrections Act.

Mr. BENTSEN. Mr. Leader, we will fully consider the effective date issue as it relates to bonds issued to refund mortgage revenue bonds and the targeting of ensuing loans. I can assure you that I will continue to support the effective dates in the Finance Committee bill when technical corrections are considered next year. I also assure you that in considering the particular problem which you have raised, I will do all that I can to avoid inequitable results.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987

Mr. HEFLIN. Mr. President, I was delighted that the Congress adopted S. 825, the Housing and Community Development Act of 1987, late last night. I decried the failure of Congress to take action on this bill in a speech I delivered on the day before yesterday, December 20, 1987. While I doubt my words served as a major catalyst in moving this bill through the Congress; nevertheless, I was happy to see that this bill was passed, and am hopeful that it will be signed into law by the President.

For the last 7 years, the present administration has been opposed to the passage of a freestanding housing bill, and I believe the Nation's families have suffered as a result. During that time, we have seen the Federal budget increase by more than 60 percent, while the House portion of the Federal budget decreased by 70 percent. In 1980, housing programs accounted for 5.3 percent of the Federal budget. Today, they make up just 1.3 percent of the Federal budget. I believe that every citizen in this great country deserves adequate housing.

Owning one's own house is a significant part of the American dream. I think that this bill will help individuals throughout the Nation to fulfill this aspect of the American dream. The cuts of the past have not only been unacceptable; these cuts have been disastrous. However, I believe that this bill will help to make adequate housing a reality for millions of people across the Nation.

Again, Mr. President, I would like to express my hopes that this bill will finally be signed into law by the President of the United States in the next few days—thus immeasurably helping the people of America to realize their dreams—the dream of having a place to call home, the dream of owning that home, and the dream of adequate housing for all the people of this Nation.

Thank you, Mr. President.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination, which was referred to the Committee on the Judiciary.

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

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on December 22, 1987, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 1777. An act to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes;

H.R. 2945. An act to amend title 38, United States Code, to provide a 4.2 percent cost-of-living adjustment in the rates of Veterans' Administration disability compensation for veterans and dependency and indemnity compensation for survivors and an increase in the number of vocational training evaluations of veteran-petitioners; and to amend the Veterans' Job Training Act to extend the deadline for veterans to apply for participation;

H.R. 3545. An act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988; and

H.J. Res. 395. Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes.

Under the authority of the order of the Senate of February 3, 1987, the enrolled bills and joint resolutions were signed on December 22, 1987, during the recess of the Senate, by the Acting President pro tempore [Mr. BURDICK].

MESSAGES FROM THE HOUSE

At 12:02 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 825) to amend certain laws relating to housing, and for other purposes.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate.

H.J. Res. 436. Joint resolution providing for the convening of the second session of the One Hundredth Congress.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 235. A concurrent resolution providing for the sine die adjournment of the One Hundredth Congress.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on December 22, 1987, he had presented to the President of the United States the following enrolled bills:

S. 1642. An act to designate the United States Post Office at 600 Franklin Street in Garden City, New York, as the "John W. Wydler United States Post Office"; and

S. 1684. An act to settle Seminole Indian land claims within the State of Florida, and for other purposes.

ADDITIONAL COSPONSORS

S. 1340

At the request of Mr. PRYOR, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1340, a bill to provide for computing the amount of deductions allowed to rural mail carriers for use of their automobiles.

S. 1703

At the request of Mr. EVANS, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Montana [Mr. BAUCUS], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 1703, a bill to amend the Indian Self-Determination and Education Assistance Act and for other purposes.

S. 1885

At the request of Mr. DODD, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1885, a bill to provide for a Federal program for the improvement of child care, and for other purposes.

S. 1976

At the request of Mr. EVANS, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1976, a bill to amend the Indian Child Welfare Act, and for other purposes.

SENATE JOINT RESOLUTION 199

At the request of Mr. BYRD, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Joint Resolution 199, a joint resolution to designate the month of April, 1988, as "Trauma Awareness Week."

SENATE JOINT RESOLUTION 224

At the request of Mr. CHILES, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Indiana [Mr. QUAYLE] were added as cosponsors of Senate Joint Resolution 224, a joint resolution to designate the period commencing on September 5, 1988, and ending on September 11, 1988, as "National School Dropout Prevention Week."

SENATE RESOLUTION 352—AUTHORIZING CERTAIN APPOINTMENTS AFTER SINE DIE ADJOURNMENT

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. RES. 352

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, and the Deputy President of the Senate pro tempore be, and they are hereby, authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

SENATE RESOLUTION 353—APPOINTING A COMMITTEE TO NOTIFY THE PRESIDENT OF THE PROPOSED ADJOURNMENT OF THE SESSION

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 353

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join a similar committee of the House of Representatives to notify the President of the United States that the two Houses have completed their business of the session and are ready to adjourn unless he has some further communication to make to them.

ADDITIONAL STATEMENTS

PASSAGE OF THE IROQUOIS AMENDMENT

● Mr. WEICKER. Mr. President, I would like to briefly explain the amendment I sponsored to the energy and water appropriations bill (H.R. 2700) regarding the consideration by the Federal Energy Regulatory Commission [FERC] of the application made by the Iroquois Gas Transmission System [IGTS]. IGTS has applied to FERC for consideration of it's application under the new and untested optional expedited certificate [OEC] procedures which would ignore any consideration of need and alternative ways of supplying natural gas to the Northeast.

Much concern has been expressed by the use of the OEC procedures by FERC to consider such a large proposed pipeline with the potential for significant environmental impacts. With the full support of the Connecticut congressional delegation, I sponsored an amendment in the Senate to prevent FERC's use of the OEC procedures to consider the Iroquois application. I am pleased that the conference on the continuing resolution has maintained this amendment, with a modification.

The amendment, as approved by the conference, makes clear that no funds will be used for the consideration of the Iroquois application by FERC using it's OEC procedures until all environmental impact and considerations have been concluded. It is understood that an Environmental Impact Statement [EIS] will be prepared according to the National Environmental Policy Act [NEPA]. FERC is also required, and expected, in cooperation with other Federal agencies to observe the environmental requirements of the Clean Water Act, Rivers and Harbors Act, Endangered Species Act, Coastal Zone Management Act, and all other applicable environmental laws. Only after all environmental considerations have been fully and completely considered will FERC be allowed to use funds for further consideration of the Iroquois application.

Mr. President, with this process established in law and as explained here, it is my hope that the interests and concerns of Connecticut will be protected in the future supply of energy to the State and the Northeast.

A SALUTE TO RAY A. BARNHART

● Mr. GRAMM. Mr. President, it is with great pleasure that I salute Ray A. Barnhart upon the occasion of his retirement as Administrator of the Federal Highway Administration. The State of Texas is justifiably proud of this dedicated public servant who re-

tires December 31, 1987, after serving the Reagan administration since January 1981.

Though born in Illinois, Ray moved to Texas over 30 years ago to pursue the businesses of construction and insurance. He has adopted Texas as his home wholeheartedly, becoming city councilman, State legislator, member of the Texas Highway Commission and chairman of the Texas Republican Party. Ray has been a strong spokesman and supporter of President Reagan's philosophy—but he is a doer as well. During his years as Federal Highway Administrator he worked to return management prerogatives to the State level and instituted cost-saving procedures on the national level. Ray's role in the passage of the Surface Transportation Assistance Act of 1982 ranks among his greatest achievements; the act raised much-needed highway revenues for the first time in over 20 years. Ray also worked hard pursuing initiatives to increase America's stature on the international technological scene where our leadership is now in strong demand.

During his tenure as administrator, he presided over an agency that employs 3,400 men and women in the 50 States, Puerto Rico, and the District of Columbia and has a budget of over $14 billion. Responsible not only for completing, repairing, and rehabilitating the Nation's Interstate and Primary Highway System, this agency also is involved in regulating many safety issues regarding the 5 million commercial vehicles on our Nation's highways.

I applaud Ray Barnhart, my friend and fellow Texan, as he leaves this post after 7 years of leadership for the Reagan administration and I wish him every success in future endeavors.●

HMONG REFUGEES IN OREGON

● Mr. HATFIELD. Mr. President, on October 7 the Senate approved, by a margin of 63 to 33 votes, an amendment that seeks to improve the protection of refugees in Southeast Asia through improvements in camp security and living conditions, as well as through the promotion of appropriate durable solutions and an ongoing resettlement program. This amendment put the Senate on record in support of a continued humane and generous resettlement and protection program through the end of the decade. The vote demonstrates that the Senate has not succumbed to "compassion fatigue" in Southeast Asia.

The Atlantic Monthly's October feature article, "The Last Bus", expounds upon the precarious situation of one Southeast Asian refugee group, the Hmong. The Hmong face a range of difficult options because they cannot repatriate safety and the Thai refuse them permanent asylum.

Donald A. Ranard, who went to Ban Vinai, the major Hmong camp, states in his article, "Resettlement in the U.S. isn't the best solution—it's the least bad. And these days that's as good as it gets for the Hmong".

The Hmong have been reluctant to come to countries of third asylum, for both cultural and practical considerations. After 7 years of resettlement efforts, the Hmong are showing greater and greater signs of success. One of the reasons for this is the generous efforts of U.S. citizens who have helped the Hmong adjust to American culture and practices.

Recently in my own State, one Oregonian lost his life in a courageous attempt to save two Indochinese refugees. For the last 7 years of his life, Mike Raz had been a friend to the Indochinese community of Portland. He had given freely of his time and energies, and his love for his newfound friends led him to lay down his life for two of them who were drowning. It is because of the generosity and kindness of people like Mike Raz that the U.S. refugee policy in Southeast Asia is the tremendous humanitarian success that it is. The refugees in Ban Vinai and elsewhere owe a debt of gratitude to Mike, because if there were not American citizens willing to welcome incoming refugees, then the future of the U.S. refugee program would be bleak.

Mr. President, the fate of the Indochinese refugees resides with the decisions we make here in the United States. The real solution for the refugees is found in political and economic stability in their homelands in a manner which will allow them the chance to return there. But until that day comes, we must persist with efforts to continue to assist refugees in Southeast Asia. And thanks to loving people like Mike Raz and millions of others, we can be certain that this work will be done in a most American way.

Mr. President, following my statement, I would like to have inserted into the CONGRESSIONAL RECORD two articles pertaining to my remarks.

The articles follow:

LOST BETWEEN SEA AND RIVER, MAN REMAINS REFUGEES' FRIEND TO END—MARK RAZ HASN'T BEEN SEEN SINCE HE WENT TO THE AID OF A DROWNING CAMBODIAN

(By Michelle Stein)

For seven years Mark Raz of Portland had been a friend to the Indochinese community, helping refugees learn English, find jobs and work through income tax problems.

Saturday afternoon, Raz, 31, tried again to help. This time, a rescue effort would end his life.

Raz and a Hillsboro couple, Na and Nong Neou, are missing and presumed drowned at the mouth of the Columbia River. U.S. Coast Guard officials Tuesday said their bodies had not been found.

How they got into the river is a matter of speculation. Raz had gone fishing with two other Indochinese, who are friends, Saturday morning at Fort Canby State Park, on the Washington side. By noon Raz had reeled in a large perch and had hopes of hooking a few more.

Shortly afterward, a woman, frantically waving her arms, floated past Raz and his friends. Raz sent his friends for help and then attempted to rescue the woman, later identified as 29-year-old Nong Neou.

"Witnesses said Mark held onto a rock and tried to reach the woman's hand," said Marty Raz, who lived with his brother in Northeast Portland. "But a big wave came and washed Mark out to sea."

Fort Canby rangers tell a different story. Ranger Bruce Beyerl said officials believe Raz jumped "20 to 25 feet" from a "practically vertical cliff" into the pounding surf.

"The waves were 5 to 6 feet high," Beryl said. "They were really smashing the shore."

The woman's husband, 35-year-old Na Neou, was not seen in the water; but officials believe he also drowned. Relatives confirmed that the Neous had gone fishing together Saturday morning. Neither husband nor wife, both Cambodian refugees, has been seen since.

Hampered by dense fog, Coast Guard officials ended their search Sunday afternoon without recovering any bodies. Members of the Raz family, however, doubt that Mark Raz is coming home again.

"You don't know for sure when there's still a chance," said Bertha Raz, Mark's mother. "But chances are he's not alive. We just want them to recover a body."

That their son risked and probably lost his life to help another does not surprise the Razes. Mark Raz, a landscaper for the Oregon Parks and Recreation Division, was a "wonderful boy" who "loved helping others," his mother said.

"He memorized Sermon on the Mount," said Bertha Raz. "He tried to live by that standard."

Mark Raz was especially fond of helping those in the Indochinese community. Seven years ago he befriended refugees on a neighborhood basketball court, teaching them to play the game, remembers Mark's father, Paul Raz.

The refugees "didn't know a thing about basketball," said Paul Raz. "Mark played with them and then brought them home. He really cared about them."

Sokhom Tauch, at the Portland Refugee Center, said Tuesday that he didn't know Mark Raz but had heard from others of his generosity. As it happens, Tauch also was acquainted with the Neous.

"My friends tell me Mark Raz was the type of person who would help an elderly Indochinese person across the street," Tauch said. "He would run up to them and try to help."

THE LAST BUS

When Boonmee Vichitmala returned to Ban Vinai, a Hmong refugee camp in northeastern Thailand, from a tour of the United States, he brought back dozens of photographs he had taken in California, Minnesota, and Rhode Island, of Hmong refugees who had been successful in America. As the Thai camp commander of Ban Vinai, Boonmee was in charge of Thailand's largest refugee camp, containing the biggest Hmong community in the world. For several years he had grappled with a perplexing problem: what to do with more than 40,000 refugees who would rather stay in a refugee camp than go to the United States.

Boonmee's photographs showed Hmong refugees, in their elaborately embroidered tribal clothes, standing in front of their new houses and cars and in their remodeled living rooms and kitchens, packed with TVs, stereos, VCRs, ovens, dishwashers, and microwaves. He put the pictures on the outside wall of his office building, a bungalow in the middle of the camp, and when Hmong visitors came by, Boonmee would point to the pictures and describe the life that was awaiting them in America.

Boonmee's plan worked about as well as the quixotic scheme to reduce the Hmong birthrate in Ban Vinai by offering cassette recorders and other premiums to those who volunteered to participate in a birth-control program. For a long time after that, people could be seen grinding up birth-control pills to use in their gardens. The pills, it turns out, make an excellent fertilizer—a fillip of irony in the life of the Hmong. "The Hmong have lost the things that matter most to them: their homeland and their independence," a refugee worker in Ban Vinai commented to me on a recent visit I made. "All they have left is their stubbornness."

Refugee officials talk about the three "durable solutions" to refugee problems: voluntary repatriation, settlement in the country of first refuge, and resettlement in a third country. For the Hmong, who never seem to fit into conventional categories, circumstances have created the "non-durable nonsolution," as one U.S. refugee official puts it, of a life in limbo in Ban Vinai.

According to the 1967 United Nations agreement on refugees, to which the United States (but not Thailand) is a signatory, repatriation is acceptable only when it's voluntary or when changed circumstances in the refugee's country of origin will permit a safe return. Neither condition applies. The Hmong say they don't want to go back to a Vietnamese-controlled Laos, and independent observers are unable to confirm or deny reports that some returned Hmong have been singled out for harsh treatment. Certainly the resistance complicates matters: even if the Hmong wanted to go back, the Lao government would be unlikely to accept large numbers of them from a camp with ties to the active resistance.

The second solution—settling the refugees permanently in Thailand—probably has no more chance for success than repatriation, even though Ban Vinai, with its village-like appearance, seems halfway there. Thailand has refused even to discuss the possibilty, and with reason. For one thing, a resettlement program in Thailand could attract thousands of new asylum-seekers from Laos, one of the poorest countries in the world. For another, hundreds of thousands of Indochinese refugees and displaced persons are still in Thailand twelve years after the end of the war, including perhaps 50,000 illegal immigrants from Laos. In addition, Thailand has a shifting population of hill-tribe refugees from Burma, 12,000 Chinese refugees (remnants of the defeated Chinese Kuomintang army), and 40,000 Vietnamese refugees from the first Indochina War, who thirty years later are still viewed suspiciously as a Vietnamese fifth column. Moreover, Thailand already has its own population of Hmong—50,000 of them—and for years has been trying without success to persuade them to come down from the mountains, where they grow opium, slashing and burning valuable forest in the process.

Still, the presence of 45,000 anti-Communist Hmong on the Thai-Lao border hasn't been without temporary advantage to Thailand. An effective resistance might provoke an attack from Vietnamese-backed Laos and most certainly would precipitate a crackdown on Hmong-resistance sympathizers in Laos, which in turn could generate more refugees. But a minimally effective resistance keeps presssure on Laos. This gives Thailand a card to use in its efforts to negotiate better relations with Laos, which supports a small Communist Thai insurgency in northeastern Thailand. There is economic advantage as well: Ban Vinai is located in one of Thailand's poorest regions, and its markets are a source of income to local villagers, who can no longer depend on trade with Lao villagers across the Mekong.

For the Hmong and the United States, Ban Vinai has provided an alternative to resettlement in the United States—after the 1980 influx neither the Hmong nor the United States was eager to try that experiecne again—and time to wait for other options to open up. Most of all, Ban Vinai serves the interests of Hmong resistance leaders. Without Ban Vinai the resistance would fold, and without a resistance Hmong military leaders—both in Ban Vinai and in the United States—would lose their only source of power.

In 1983, suspecting that the non-durable non-solution was becoming, quietly and without notice, permanent, Thailand increased pressure on the Hmong to make a choice. It closed Ban Vinai to new arivals, who were sent instead to Chigang Kham, an austere barbed-wire camp that makes Ban Vinai look like a veritable country club. A year later Thailand stepped up the pressure by increasing efforts to prevent ayslum-seekers from entering the country. Also, from 1984 to 1985 some 3,000 undocumented residents—refugees who and sneaked into Ban Vinai to join relatives—were rounded up and sent to Chiang Kham. The post office, a vital link to relatives in the United States, was moved out of Ban Vinai, and a ban on the cutting of bamboo for construction was reissued, forcing the United Nations to use corrugated tin to build homes that became hotboxes in the intense heat.

Efforts to control the birthrate in Ban Vinai practice of early marriage, combined with Ban Vinai's large population of young women, has given the camp one of the highest birthrates in the world. For every Hmong who emigrated to the United States in 1986, another was born in the camp.

From 1984 to 1986 Alan Wright, a nurse in Ban Vinai, studied the birth, emigration, and death rates in the camp. In a paper he wrote in the summer of last year, Wright offered a best-case-worst-case scenario: at the rate of resettlement in the West occurring over that period, the camp's population would stay roughly the same, but if emigration stopped, the population would double in just seventeen years. Before he left Thailand, in 1986, Wright gave a copy of his report to a Thai refugee official. It was called "A Never-Ending Refugee Camp?"

The worst-case scenario—a doubling of the Hmong population in seventeen years—wasn't impossible. To Thai officials, the U.S. refugee program appeared to be winding down. In 1980, at the height of the refugee crisis in Southeast Asia, more than 90,000 refugees left Thailand for resettlement in the United States. As the crisis waned, so did international attention. In 1985 fewer than 24,000 refugees left Thailand for the United States; other countries took 7,400. But there were still plenty of refugees in Thailand at the end of that year—130,000, a slight increase over the previous year. (More than 250,000 Cambodian "displaced persons" were on the Thai-Cambodian border, with no option for resettlement in the West.)

In the summer of 1986. Thai officials announced that 1987 would be the last year that refugees would be resettled in the West. A letter threatening to close down Ban Vinai and send the refugees back to Laos was circulated in the camp. The threat came at a time when the Hmong were beginning to lose faith in the eleven-year-old resistance. It is said that when General Vang Pao, the charismatic Hmong leader, fled Laos for Thailand and then the United States, in 1975, he told one of his assistants that the Hmong would return to Laos within ten years. The Hmong believe in the power of prophecy, and when 1985 passed with no prospect of change in Laos, many began to question the resistance effort as a whole and Vang Pao's leadership in particular.

By mid-1986 refugee officials at the American Embassy in Bangkok had learned that 10,000 Hmong—a quarter of Ban Vinai's population—had put their names on a list of people interested in going to the United States. To be admitted to the United States, a refugee must meet two criteria: he must show that he fled his country out of a "well-founded fear of persecution," and he must be of "special humanitarian concern" to the United States. These criteria fit the Hmong. But did they want to come? In Bangkok, observers in the diplomatic community weren't convinced that there had been a dramatic change in attitude, despite the list of 10,000 names. The Hmong had a habit of going through all the stages of getting approved and then just staying put. One INS officer was openly skeptical. "I'll believe it when they get on the bus," he said.

I decided to go to Ban Vinai to see the situation there for myself.

To a first-time visitor Ban Vinai seems crowded and dirty. There is no running water or electricity in the huts. Children play in stagnant pools, and one is never far away from the stench of open sewers. Tetanus, typhoid, and tuberculosis take their toll on a people who traditionally believe that disease is caused by spirits and healed through complex rituals of exorcism. Yet in some ways conditions compare favorably with those in poor villages in Laos and Thailand: the United Nations High Commissioner for Refugees provides food, shelter, and water. A hospital, run by a team of Dutch health workers, provides medical care. There are English and vocational-training classes for adults, and an elementary school for the children. Markets sell everything from fresh fish and fruit to cosmetics and Chinese herbal medicines. There's a barber shop, several restaurants, a blacksmith, and a church, where a French priest, wearing a Hmong-embroidered vestment, gives sermons in Lao on the Holy Spirit, offering an alternative to the spirits, malevolent and benign, that populate the Hmong universe. There are even outdoor photo studios where one can choose the Swiss alps or the Taj Mahal for a backdrop.

In the neighborhoods women sit for hours on tiny wooden stools in front of their thatched-roof huts or tin-roofed longhouses, sewing pan dau while they listen to tapes from relatives on Japanese cassette recorders. Occasionally there's the sound of a gong. Somewhere in the camp at shaman—a rattle in one hand, a finger bell in the other, and a black cloth covering his face—chants and dances, he is gone on a journey to the

had intensified, and that Thai guards in Ban Vinai were extorting money from some of the undocumented residents—Hmong refugees who had sneaked into Ban Vinai to join relatives. Those who complained about the payments were threatened with repatriation.

On March 4 and 11 the refugee situation in Thailand was the focus of House subcommittee hearings. One of those who testified at the March 4 hearing was Roger Winter, the director of the U.S. Committee for Refugees, who had investigated pushbacks on the Thai-Laos border and had warned in a report almost a year earlier, "The threat of involuntary repatriations . . . appears to be increasing." Winter presented the committee with the names of 362 Hmong who had been turned away from Thailand and urged the United States to "intervene more vigorously" to stop the forced returns.

At the March 11 hearing a State Department refugee official couldn't confirm or deny Winter's information but said that "the United States is adamantly opposed to the involuntary return of anyone anywhere."

Four days later thirty-eight undocumented immigrants were rounded up in Ban Vinai and sent back to Laos. This wasn't an ordinary pushback, refugee advocates pointed out. It was the first time the Thais had repatriated Hmong from the sanctuary of a UN refugee camp. A State Department protest ("possibly the most serious instance of forced repatriation from Thailand since 1979") prompted an angry Thai response ("If the U.S. is so concerned with the human rights of 38 Hmong, it must be even more concerned about larger groups.") Another series of pushbacks brought the situation to the brink of crisis.

Noting that asylum in Thailand is contingent on the continued opportunity for resettlement in the West, refugee advocates called for a long-term commitment to solving the problem. On March 23 Senator Mark Hatfield, of Oregon, introduced a bill that would maintain for the next three years an Indochinese-refugee ceiling of 28,000—1,000 more than the anticipated 1988 ceiling. The bill also calls for increased efforts to protect refugees in Thailand, and earmarks 9,000 slots each year for the "long-stayers." The bill is unlikely to pass in its present form; many find fault with the inflexibility of a three-year admission number for specific groups of refugees. But the bill has served the temporary purpose of relieving pressure on refugees in Thailand—it has, in other words, gotten the Thai government's attention. A promise by Secretary of State George Shultz at a June conference of the ASEAN nations that the United States will "continue to resettle refugees in substantial numbers" has served the same purpose. Yet the potential for crisis remains. And while refugees in Ban Vinai don't appear to be in any immediate danger, most observers believe that the turning away of Hmong along the Thai-Lao border quietly continues.

Last spring a friend who works in Ban Vinai called me from Bangkok. Almost all the Hmong approved by the INS had gotten on the bus, he said.

What happens to the remaining 500,000 Hmong in Thailand—38,000 still in Ban Vinai and about 12,000 in Chiang Kham—largely depends on the United States. This fall refugee officials will present the Administration's 1988 proposal for U.S. refugee admissions to the House and Senate subcommittees on refugee affairs. The Administration is expected to propose an Indochinese-refugee ceiling of at least 27,000 (plus 8,500 Vietnamese leaving Vietnam directly through the Orderly Departure Program). Observers believe that the Administration is prepared to propose a tentative Hmong-admissions number close to this year's 8,900.

Although there is some congressional support for a moderately high Hmong ceiling, refugee advocates have been anticipating with some anxiety the consultations between the Administration and Congress. The consultations have been scheduled to take place shortly after the arrival in July, August, and September of more than 5,500 Hmong—over half the Hmong arrivals for fiscal year 1987—a situation that is sometimes referred to as the "Hmong bulge." The bulge could have been avoided if the processing of the 5,500 Hmong applications had been done earlier in the year, say refugee advocates, who worry that the arrival of so many Hmong in so short a time could create a backlash, particularly in the central valley.

Resettlement in the United States may not be a happy solution for the Hmong. But right now there are no other options: the Hmong don't want to go back to a Vietnamese-controlled Laos, and as long as there is a active resistance with ties to Ban Vinai, Laos probably won't take them. Permanent settlement of the Hmong in Thailand is such a sensitive issue with the Thais that even to bring it up at this point could jeopardize the safety of Hmong asylum-seekers as well as of those in Ban Vinai.

Resettlement in the United States isn't the best solution—it's the least bad. And these days that's as good as it gets for the Hmong.—Donald A. Ranard

AFRICAN FAMINE RECOVERY AND DEVELOPMENT FUND

● Mr. KENNEDY. Mr. President, for the RECORD, I simply want to commend the action yesterday of the Senate Appropriations Committee members, under the leadership of Senator KASTEN, in finally including language in the continuing resolution to establish a special fund for African famine recovery and development.

It was a concept that Senator KASTEN and I first raised in 1985, in the wake of that year's massive famine in the Horn of Africa and the Sahel. It was a concept long urged by the many voluntary and international agencies involved in African assistance, as well as officials of AID.

The concept was to deal differently with the special needs and problems of Africa, to give greater flexibility in the programming of our development efforts, and to promote both project development as well as economic and agricultural reforms.

The language adopted yesterday in the continuing resolution fully tracks the more extensive language in pending authorization bills, which I hope will be enacted in the second session of this Congress.

In the meantime, the Senate Appropriations Committee members have acted responsibly in both appropriating the full amount for Africa assistance, as well as in giving AID and the voluntary agencies new tools and greater flexibility for promoting development and agricultural reform in Africa. I commend Senator KASTEN for his leadership, and it has been a pleasure to work with him over these past 2 years to achieve this goal.●

LEGISLATIVE HISTORY PERTAINING TO STEVENS AMENDMENT NO. 1346 TO HOUSE JOINT RESOLUTION 395

● Mr. STEVENS. Mr. President, on January 12, 1987, the Office of Legal Counsel of the Department of Justice, in a memorandum to the Solicitor of the Department of the Interior, provided an opinion concerning the scope of the term "particular matter" under title 18 of the United States Code, section 208. The Justice Department memorandum broadly interprets the prohibition in that section of the Code to include matters of general policy, regulations, and legislation.

The Department of Justice interpretation prohibits Department of the Interior employees from participating in specific and general matters in which they, their spouses or children, their partners, or organizations in which they serve as officers, have a financial interest.

The effect of this interpretation is especially counterproductive since financial interests that are only remotely related to matters of general application can preclude an employee's involvement. Perhaps the most significant impact of this memorandum is on the operations of the Bureau of Indian Affairs [BIA] and the Indian Health Service [IHS].

All Alaska Natives and a majority of Indians throughout the country who are hired under the preference laws to serve in the BIA and the IHS have, by birth right, a financial interest in their tribes. In addition, many Alaska Natives and Indians are members of organizations that have financial interests that could be affected by the matters before the BIA and the IHS.

The Justice memorandum will also impact individuals who are appointed to serve on advisory boards formed to ensure proper consideration of regulatory, legislative, and other general policy issues. These individuals may have or may represent entities that have financial interests in matters the boards will consider.

The Justice memorandum will also impact on the transfer of scientific and technological information between the Government and the private sector. Scientific experts of the U.S. Geological Survey, the U.S. Bureau of Mines, and the U.S. Fish and Wildlife Service routinely serve as members of private professional societies and academic research boards. A significant number of these private-

sector organizations have financial interests in matters before these bureaus of the Department of the Interior. Continuing these relationships enhances the Government's knowledge of and contribution to scientific development.

I offered an amendment, which the Senate and House conferees accepted, to deal with the counterproductive effect created by the Department of Justice interpretation regarding section 208 of title 18, United States Code. My amendment will not eliminate the prohibitions of title 18, United States Code, section 208 for Department of the Interior and Indian Health Service employees. Rather, it will apply the prohibition to "particular matters involving a specific party or parties" as is already the case in section 207 of title 18 of the United States Code, thereby eliminating application to general policy matters. My amendment will not allow employees to be involved in specific actions in which they have a direct financial interest.

This matter has the approval of the two departments involved. It covers all Department of the Interior and Indian Health Service employees.●

ERNEST A. LOTITO

● Mr. SARBANES. Mr. President, I was saddened to learn yesterday that Ernest A. Lotito, a friend of many years, had died suddenly at his home. I had known Ernie Lotito and his family since 1968. He was a man who loved his profession—journalism and publishing; and he will be greatly missed by all those who knew him and his remarkable achievements.

I first met Ernie when he was press secretary for Maryland Citizens for Humphrey-Muskie in 1968. He then worked on the staff of Senator Joseph D. Tydings for 2 years before joining Walter F. Mondale in his Senate office as his special assistant. At the beginning of the Carter administration, Ernie served as Director of Public Affairs at the U.S. Department of Commerce. He continued his long interest in the Democratic Party by serving recently on the Fairfax County Democratic Committee.

Ernie was extraordinarily proud of his Italian heritage. He was a director of the Italian-American Foundation and had studied in Italy at the University of Padua. One of his earliest reporting assignments was with the Rome bureau of United Press International, and he maintained a life-long interest in Italy and the history and accomplishments of Italian-Americans.

One of his great ambitions had been to publish his own newspapers, and in 1978 he purchased the Calvert Independent in Calvert County, MD. Since then he purchased other weekly newspapers in Prince George's County and southern Maryland. He took pride in the quality of his publications and the strong journalistic traditions they reflected.

Ernie Lotito's life was enriched by a wonderful family who shared his enthusiastic approach to everything he undertook. He had strongly held views on politics and the role of elected officials and was involved all his life in efforts to ensure that opportunities were open to all Americans. I am proud to have known him as a friend, and I join his family and friends in mourning this great loss.●

B. MELVIN COLE

● Mr. SARBANES. Mr. President, yesterday brought the sad news of the death of one of Maryland's most distinguished and respected public servants, B. Melvin Cole, the administrative officer of Baltimore County. I join his family and friends in mourning his loss.

Mel Cole exemplified the qualities one looks for in a public official. He was experienced, knowledgeable, compassionate, and effective. Following a career of 42 years in public education where he rose from teaching in elementary school to become the associate superintendent of Baltimore County's public schools, he did not simply retire as many would have. He started a new career with the Baltimore County Government and became its chief operating officer.

Several weeks ago, the people of Baltimore County honored Mel Cole with a tribute dinner and the announcement that the Towson State University Foundation was establishing the B. Melvin Cole Endowment to honor his 50 years of exemplary public service. This endowment recognized that, although he spent most of his life working for the citizens of Baltimore County, his work was recognized throughout Maryland and beyond. He had been a vice president of the National Education Association and served as a consultant to the U.S. State Department on its schools abroad.

The editorial in today's Baltimore Sun reviews Mel Cole's worthy accomplishments, and I would like to share it with my colleagues in the Senate.

The editorial follows:

B. MELVIN COLE

Baltimore County will miss Melvin Cole. Not only was the county administrator well liked and respected. His death yesterday at 72 leaves the county without the vast knowledge of government details that he brought to his work.

He had been running the executive office as the county's highest appointed official for nine years, but his memory and experience stretched half a century into the political past. Mr. Cole provided leaders in Towson with a crucial sense of continuity. He helped define and carry out the policies of the two county executives he served—Donald P. Hutchinson for two terms and Dennis F. Rasmussen, who took office a year ago.

Mr. Cole came indirectly to government as an elementary school teacher right out of Towson State Normal School (now Towson State University). He left the school system 42 years later as associate superintendent. As an alert professional, he learned more about politics in the school system than in political science 101.

The advice he gave carried great weight in the upper echelons of government. County Executive Spiro Agnew remembered that when he became governor in 1967. He knew of Mr. Cole's informed views on public education and urged him to come to Annapolis with him. One of Mr. Cole's valuable assets was his ability to brief lawmakers—whether legislators or council members—in a dispassionate but convincing manner.

His primary duties as chief administrator involved the daily management of the county's 6,000 bureaucrats, a job he undertook with great care and seriousness. If any part of government operations broke down, one half-expected that the concerned Mel Cole would go out and fix it himself. It would have come as no surprise. His total involvement in county affairs was what made him so valuable.

One of Mr. Cole's legacies is that he leaves the county in good hands. Though he had no plans to retire, two deputies were named this month to help him cope with the growing burden of administering a subdivision of nearly 700,000 residents. Still, his firm, guiding presence will be missed. Like a proud father, Mel Cole watched over Baltimore County as it transformed itself from rural farmland into a major metropolitan suburb.●

CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES

● Mr. BUMPERS. Mr. President, I would like to thank the chairman of the Appropriations Subcommittee on Commerce, Justice and State, the Senator from South Carolina [Mr. HOLLINGS], for his help in securing startup funding for the Clearinghouse on State and Local Initiatives.

As the chairman knows the Clearinghouse is authorized by the Senate and House versions of the Omnibus Trade and Competitiveness Act, which is now being considered in conference. The Senate Commerce Committee, of which the Senator also is the chairman, reported the Clearinghouse as section 202 of S. 907. S. 907 was then melded into the Senate version of the trade bill and it was adopted by the Senate, with the Clearinghouse appearing as section 4102 of the Senate amendment to H.R. 3.

Meanwhile the House Science and Technology Committee had reported legislation establishing the Clearinghouse as title IV of H.R. 2916.

Inasmuch as the Senate and House versions of the Clearinghouse are virtually identical, it is quite clear that when the Omnibus Trade and Competitiveness Act becomes law—and I have no doubt that it will—the Clearinghouse will be fully authorized.

The Senate Appropriations Committee earmarked $500,000 in fiscal 1988 to fund the Clearinghouse in the appropriations bill for the Commerce Department. (Senate Report 100-182 at pages 6-7.) The Senate version of the continuing resolution also earmarked this amount for the Clearinghouse. (CONGRESSIONAL RECORD at S 17944-45, December 11, 1987.)

In the conference on the continuing resolution it was felt that the Clearinghouse would not need full funding this first year for several reasons. First, we already are well into this fiscal year. Second, the Department of Commerce may well wait until the trade bill is approved before it begins to organize the Clearinghouse. And third, it will take some time for the Department to appoint the director for the Clearinghouse, to hire staff and to begin operations.

Given these factors, the conference has determined to give the Clearinghouse $250,000 for this fiscal year. This is enough to make sure that the Clearinghouse begins operations this year, which is what the Congress wants for this new office.

The conference report assumes that the Clearinghouse will be established this year, either before or after the trade bill is adopted. It assumes that a director will be appointed either before or immediately after the trade bill is adopted. It assumes that the Department will begin to hire staff for the Clearinghouse, begin to operate the Clearinghouse, set the initial research and outreach priorities for the Clearinghouse and get a running-start to have the Clearinghouse operating at full-speed during fiscal 1989.

I am delighted with this action of the conference and am most grateful for the assistance of the Senator from South Carolina [Mr. HOLLINGS].●

S. 825—HOUSING AUTHORIZATION BILL

● Mr. LAUTENBERG. Mr. President, Congress finally has passed a housing authorization bill. It's about time.

I first want to commend the Senator from California, chairman of the Housing Subcommittee, for his hard work on this legislation. I am not pleased with every provision of the bill, but it should provide a stable environment in which housing and community development programs can be effectively administered over the next 2 years.

The people of New Jersey need housing programs. Affordable housing is scarce in New Jersey, where land and development prices are skyrocketing. The urban poor, the young family, the elderly are all struggling to find decent housing at an affordable price.

New Jersey's cities also need this bill. They have endured the loss of revenue sharing and a steep reduction in State urban aid. They have been hit by cuts in the UDAG and CDBG programs. One by one, they have seen sources of Federal and State commitment shrink. New Jersey's mayors are faced with raising taxes to maintain vital services. Aging infrastructures also will require significant capital investment.

It has been far too long since Congress passed legislation to reauthorize our housing and community development programs. Communities have struggled to administer programs whose continuation has been subject to the uncertainties of continuing resolutions and supplemental appropriations bills. Long-term planning has been severely hampered.

This bill would authorize several housing and community development programs at current levels. These include important programs such as Community Development Block Grants [CDBG's], and Urban Development Action Grants [UDAG's]. New Jersey has received many benefits from these programs. In fiscal year 1987, the State received about $95 million through the CDBG program and about $10 million in UDAG grants. This has helped to revitalize our urban areas, increase the availability of housing, and strengthen the economies of several communities around the State.

The bill also includes a provision I introduced to help ensure that communities in New Jersey and elsewhere are treated fairly under the Urban Development, Action Grant Program. The UDAG statute bars the use of UDAG's to facilitate business relocation. There has been controversy over the application of this provision, especially in New Jesey where many businesses are relocating due to the many economic benefits offered by our State.

The amendment I, offered, which has been included in the conference committee's report, would give an applicant community 90-day notice of intent to withhold, deny or cancel assistance. During that time, the community would be able to appeal the decision to the Secretary. This will ensure that communities will not have to worry that an arbitrary and discriminatory decision may cost them a legitimate grant award.

Another provision in the bill I want to note would extend the entitlement status of certain metropolitan cities and urban counties under the CDBG program. Because of the urgent need for this provision, and the chance that the housing authorization bill would not be approved this year, I successfully sought its inclusion as an amendment to the continuing resolution passed by the Senate last week.

In New Jersey, Hudson County, and the city of Hoboken have historically received funding under urban county status. As Hoboken has grown, the city reached the point at which it could break with the county and receive CDBG funds on its own as a metropolitan city. This bill will give them the option of deferring metropolitan city status and continuing the current arrangement. In fact, Hoboken and Hudson County have agreed to continue this arrangement, but the agreement is contingent on enactment of this legislation. I am pleased that the extension of the entitlement status will allow the decision to be made at the local level.

I have also supported another provision in the bill which would address a serious problem that has developed in Gloucester Township, NJ, and several other areas. In Gloucester Township, there is a high rate of delinquency on property tax payments by holders of Farmers Home Administration [FmHA] mortgages. This means that other taxpayers must bear the burden of these unpaid taxes. To remedy this type of problem the bill requires the FmHA to establish escrow procedures to collect property tax payments with monthly mortgage payments. This will help municipalities collect their property tax revenues and will help FmHA borrowers better budget their tax responsibilities.

I also want to note a provision in the bill which will raise the ceiling on FHA-insured mortgages in high-cost areas. This provision is very important to New Jersey, where the current ceiling is too low to service a significant number of aspiring home-buyers.

There is one provision in the bill about which I am particularly concerned—the provision that would terminate the Housing Development Grant [HoDAG] Program at the end of fiscal yar 1989. This is a new provision that was not included in the bill as passed originally by the Senate, but which has been forced on us by those who have opposed this legislation.

This indeed is a bitter pill to swallow. The HoDAG Program is an important one that has expanded the supply of housing in many areas around the country. Terminating a vital housing program like HoDAG is bad policy, very bad policy, especially given the severity of the housing crisis in America.

Mr. President, you hear a lot of talk these days about getting down to fundamentals. Well, housing is a fundamental. It's a fundamental human need. And it's a need that's increasingly going unmet in this country. That's why this Nation must make housing a priority.

Housing and community development programs have been neglected for too long. This bill isn't perfect. But it's an important step toward giving these programs the priority they deserve.●

RETIREMENT OF RAY BARNHART AS ADMINISTRATOR OF THE FEDERAL HIGHWAY ADMINISTRATION

● Mr. BENTSEN. Mr. President, Ray Barnhart, a fellow Texan, has announced his retirement as Administrator of the Federal Highway Administration [FHWA] effective at the end of this year. I have known Ray for many years, and I think that it is important for the Members of Congress to reflect on his unique contribution to the Federal highway program. He has been an impressive Administrator and an effective advocate for the Federal highway program.

His long tenure as Administrator offers strong testimony to the qualify of his leadership at the FHWA. During his tenure there, he has accelerated the completion of our interstate highway system. He has called for the Nation to concentrate on rebuilding its infrastructure as the best insurance to maintaining the quality of its interstate system. His voice is one of constant support for the improvement of the interstate system, and for the continued health of the highway trust fund.

Frankly, I am a bit disappointed that he decided to retire at this time. With the appointment of a new Secretary of Transportation, institutional continuity is very important. Ray Barnhart has that. But I guess I understand his desire to slow down his pace. Although if I know him as well as I think I do, he will not slow down at all, and the Nation will continue to be a beneficiary of his wisdom. I wish him well and look forward to having his advice and counsel on highway issues of importance to Texas and the entire Nation.●

EXPRESSIONS OF THANKS

Mr. BYRD. Mr. President, does the distinguished Republican leader have anything further?

Mr. DOLE. Nothing further except to indicate again that we are very grateful to the staff and all the others who have been thanked by the majority leader, the pages, the people we do not see much of on the Senate floor who keep this place going. Sometimes we forget those who actually make it go; we show up and everything is running, on time. So I say thank you to everyone we may have overlooked. The people who work here, whether they are operating the elevators or the restaurant or whatever, their help is appreciated. Maybe sometimes we fail to express it.

Again, I think I speak for every Member in commending the distinguished majority leader for a very good year, extraordinary leadership and patience and fairness. That is what it is all about. We look forward to another good year in 1988. I think we are all looking forward to a few days of enjoying the holiday season. I thank the majority leader.

Mr. BYRD. Mr. President, I thank the Republican leader. Erma and I join in wishing for our good friend, ROBERT DOLE, and our equally good friend, his lovely wife, Elizabeth, a happy holiday season, and a very interesting and exciting new year of 1988. Whether the beginning of 1989 finds ROBERT DOLE at the other end of the avenue or at this end of the avenue—and I hope he will be at this end—[Laughter].

In either event, he is going to have a very considerable influence upon the future of this great country. And I certainly wish him well. I hope he stays in good health during these days between now and the time that we meet again. I hope he does not get out into the snow and get snowbound too much. But anyhow, out of the bottom of my heart I thank him for the cooperation and friendship he has shown me. He has helped to make my work easier. Without his cooperation, the Senate could not have demonstrated integrity and resolve in some of the difficult matters that came before it.

ADJOURNMENT SINE DIE

Mr. BYRD. Mr. President, in the spirit of Christmas and good will, I am going to ask the distinguished Republican leader to adjourn the Senate sine die.

Mr. DOLE. It is good to be in charge, only if temporarily.

[Laughter].

I thank the majority leader.

Mr. President, I move in accordance with the provisions of House Concurrent Resolution 235, that the Senate adjourn sine die.

The motion was agreed to, and at 4:26 p.m., the Senate adjourned sine die.

NOMINATIONS

Executive nominations received by the Senate December 22, 1987:

THE JUDICIARY

HOWARD E. LEVITT, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK VICE MARK A. COSTANTINO, RETIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 22, 1987:

DEPARTMENT OF STATE

HENRY ANATOLE GRUNWALD, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF AUSTRIA.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING WILLIAM L. EAGLETON, JR., AND ENDING DENNIS L. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 2, 1987.

FOREIGN SERVICE NOMINATIONS BEGINNING JAMES A. MOORHOUSE, AND ENDING HENRY L. CLARKE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 19, 1987.

FOREIGN SERVICE NOMINATIONS BEGINNING JOHN F. KORDEK, AND ENDING WILLIAM M. ZAVIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 30, 1987.

HOUSE OF REPRESENTATIVES—*Tuesday, December 22, 1987*

(Legislative day of Monday, December 21, 1987)

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. FOLEY] at 10 o'clock and 34 minutes a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray in the words of Psalm 100:

Make a joyful noise to the Lord, all the lands! Serve the Lord with gladness! Come into His presence with singing! Know that the Lord is God! It is He that made us, and we are His; we are His people, and the sheep of His pasture. Enter His gates with thanksgiving, and His courts with praise! Give thanks to Him, bless His name! For the Lord is good; His steadfast love endures for ever, and His faithfulness to all generations.

As the Psalmist makes clear, O God, we are grateful for all the blessings we have received. We are thankful that we live in a nation where we can speak and worship as we wish and we are ever appreciative of all the freedoms we hold dear. Bless all those who seek to do justice and to serve faithfully in this place. Whatever our task, O God, may we see in our work opportunities to contribute to understanding and good will in our communities and in our world. As we leave this place, we pray, O gracious God, that Your benediction accompany us, Your spirit sustain us, and Your love surround us. May the joy and happiness and the peace of these days be with us all. Amen.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
December 22, 1987.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received at 3:40 a.m. on Tuesday, December 22, 1987, the following message from the Secretary of the Senate: That the Senate agreed to the conference report on H.R. 3545 and the conference report on H.J. Res. 395.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 990. An act to direct the Secretary of the Interior to convey a certain parcel of land located near Ocotillo, CA; and

H.R. 1612. An act to authorize appropriations under the Earthquake Hazards Reduction Act of 1977 for fiscal years 1988, 1989, and 1990.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 278) "An act to amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the act, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 3479) "An act to provide for adjustments of royalty payments under certain Federal onshore and Indian oil and gas leases, and for other purposes."

The message also announced that the Senate recedes from its amendment to the title of the above-entitled bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills and joint resolution during the recess on calendar day December 22, 1987:

H.J. Res. 395. Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes;

H.R. 1777. An Act to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes;

H.R. 2945. An act to amend title 38, United States Code, to provide a 4.2-percent cost-of-living adjustment in the rates of Veterans' Administration disability compensation for veterans and dependency and indemnity compensation for survivors and an increase in the number of vocational-training evaluations of veteran-pensioners; and to amend the Veterans' Job Training Act to extend the deadline for veterans to apply for participation; and

H.R. 3545. An act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988.

RECESS

The SPEAKER pro tempore. If there is no further pending business, the Chair will declare that the House will stand in recess until 1 p.m. this afternoon.

Accordingly (at 10 o'clock and 38 minutes a.m.) the House stood in recess until 1 p.m. today.

□ 1300

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. FOLEY] at 1 o'clock and 4 minutes p.m.

RECESS

The SPEAKER pro tempore. The House will stand in recess until 2 p.m.

Accordingly (at 1 o'clock and 5 minutes p.m.) the House stood in recess until 2 p.m.

□ 1403

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. FOLEY] at 2 o'clock and 3 minutes p.m.

RECESS

The SPEAKER pro tempore (Mr. FOLEY). The House will stand in recess until 4 p.m.

Accordingly (at 2 o'clock and 4 minutes p.m.), the House stood in recess until 4 p.m.

□ 1600

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. COELHO] at 4 o'clock and 9 minutes p.m.

H.J. RES. 395, FURTHER CONTINUING APPROPRIATIONS, 1988

The text of the joint resolution, H.J. Res. 395, follows:

HOUSE JOINT RESOLUTION 395

Making further continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

SECTION 1. Because the spending levels included in this Resolution achieve the deficit reduction targets of the Economic Summit, sequestration is no longer necessary. Therefore:

(a) Upon the enactment of this Resolution the orders issued by the President on October 20, 1987, and November 20, 1987, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, are hereby rescinded.

(b) Any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequesterable resource that has been reduced or sequestered by such orders is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

[1] SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

ENROLLMENT ERRATA

Pursuant to the provisions of section 101(n) of this joint resolution (appearing on page 433), changes made are indicated by footnote.

The words "Government", when referring to the Government of the United States will be capitalized, "Act", if referring to an action of the Congress of the United States, will be capitalized, "State", when referring to a State of the United States will be capitalized, "title" and "section" will be lower case, when referring to the United States Code or a Federal law. The capitalization of the foregoing words may be changed, and not footnoted.

AN ACT

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce, including not to exceed $2,000 for official entertainment, $39,204,000: *Provided,* That $250,000 for establishing a clearinghouse on State and local initiatives on productivity, technology and innovation shall be available subject to enactment of authorizing legislation.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $94,835,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $346,444,000.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs, $32,079,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $182,028,000 of which:

(a) $3,000,000 is for a grant to the Institute for Technology Development, Jackson, Mississippi;

(b) $2,500,000 is for a grant to the University of Bridgeport, in Bridgeport, Connecticut to assist in the construction and instrumentation of the Connecticut Technology Institute;

(c) $1,000,000 is for a grant to the city of Worcester, Massachusetts and the Worcester Business Development Corporation to assist in the construction of a biotechnology research park in Worcester, Massachusetts: *Provided,* That notwithstanding any other provision of law or regulation, including title I of the Public Works and Economic Development Act of 1965, as amended, except the following provisions; section 712 of said Act, the Secretary of Commerce is hereby directed to obligate said funds as a direct grant without any further requirement or delay upon enactment of this legislation; and

(d) $250,000 shall be obligated for the Center for International Trade Development at Oklahoma State University:

Provided, That during fiscal year 1988 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration.

FINANCIAL AND TECHNICAL ASSISTANCE

(RESCISSION)

Of available funds under this head, $1,541,067 are rescinded.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $24,742,000: *Provided,* That the full time permanent positions for the Economic Development Administration shall not be fewer than 360 and that the number of Deputy Assistant Secretary positions shall not be greater than four: *Provided further,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1988, and such positions shall be maintained in the various States within the approved organizational structure in place on December 1, 1987, and when possible, with those employees who filled those positions on that date.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $253,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use abroad and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $161,432,000 to remain available until expended, of which $6,791,000 is for the Office of Textiles and Apparels, including $3,360,000 for a grant to the Tailored Clothing Technology Corporation and of which $3,840,000 is for support costs for a new materials center in Ames, Iowa: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further,* That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed eight.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space

[1] Copy read "(a) Such amounts".

abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $5,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $37,465,000, to remain available until expended: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $39,705,000, of which $25,463,000 shall remain available until expended: *Provided,* That not to exceed $14,242,000 shall be available for program management for fiscal year 1988: *Provided further,* That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $8,000 for representation expenses abroad; $11,724,000.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 399 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; $1,110,015,000, to remain available until expended; and in addition, $28,291,000 shall be derived from the Airport and Airways Trust Fund; and in addition, $44,397,000 shall be derived by transfer from the Fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $15,248,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided,* That grants to States pursuant to section 306 and section 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: *Provided further,* That $376,000 of the funds made available under this paragraph shall be used for a semi-tropical research facility located at Key Largo, Florida: *Provided further,* That of the funds appropriated in this paragraph, necessary funds shall be used to fill and maintain a staff of three persons, as National Oceanic and Atmospheric Administration personnel, to work on contracts and purchase orders at the National Data Buoy Center in Bay St. Louis, Mississippi, and report to the Director of the National Data Buoy Center in the same manner and extent that such procurement functions were performed at Bay St. Louis prior to June 26, 1983, except that they may provide procurement assistance to other Department of Commerce activities pursuant to ordinary interagency agreements. Where practicable, these positions shall be filled by the employees who performed such functions prior to June 26, 1983.

No monies appropriated by this Act shall be used by the Department of Commerce prior to February 1, 1988, to initiate proceedings under section 312 (d) and (e) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458) against the State of California's Coastal Management Program. Further, the Secretary of Commerce is directed to release to the California Coastal Commission the fiscal year 1987 administrative grant for operations and equipment authorized under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

Notwithstanding the provisions of Public Law 100-71, any funds appropriated in prior Acts and unobligated for the commercialization of the Land Remote Sensing Satellite System (LANDSAT) as of the date of enactment of House Joint Resolution 395, shall be available to restore the reductions in other programs funded in "Operations, Research, and Facilities" which were made pursuant to the conference report and accompanying statement of the managers on House Joint Resolution 395, if a new contract has not been signed by April 1, 1988 for commercialization of the Land Remote Sensing Satellite System (LANDSAT): *Provided,* That such contract shall be subject to the approval of the Appropriations Committees of the Congress pursuant to the reprogramming provisions of section 608 of this Act.

FISHERIES PROMOTIONAL FUND

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, $2,625,000 shall be made available as authorized by said Act, to remain available until expended, and $375,000 shall be transferred to the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries".

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $719,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $1,919,000, to remain available until expended.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, $120,000,000 and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

NATIONAL BUREAU OF STANDARDS

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, $144,783,000, to remain available until expended, of which not to exceed $4,920,000 may be transferred to the "Working Capital Fund", and of which not to exceed $1,000,000 shall be available for construction of research facilities.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $13,814,000, of which $700,000 shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $21,290,000, to remain available until expended: *Provided,* That not to exceed $1,200,000 shall be available for program management as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further,* That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: *Provided further,* That notwithstanding sections 391 and 392 of the Communications Act, as amended, up to $1,700,000 shall be available for the establishment and administration of the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT).

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advance payments not otherwise authorized only upon the certification of officials designated by the Secre-

tary that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

SEC. 104. During the current fiscal year, the National Bureau of Standards is authorized to accept contributions of funds, to remain available until expended, from any public or private source to construct a facility for cold neutron research on materials, notwithstanding the limitations contained in 15 U.S.C. 278d.

SEC. 105. In procuring information processing and telecommunications services of the National Oceanic and Atmospheric Administration for the Advanced Weather Interactive Processing System, the Secretary of Commerce may provide, in the contract or contracts for such services, for the payment for contingent liability of the Federal Government which may accrue in the event that the Government decides to terminate the contract before the expiration of the multi-year contract period. Such contract or contracts for such services shall limit the payments which the Federal Government is allowed to make under such contract or contracts to amounts provided in advance in appropriation Acts.

SEC. 106. Notwithstanding any other provision of law, including section 257(c) of the Trade Act of 1974, as amended, and section 203 of the Public Works and Economic Development Act of 1965, as amended, principal and interest repayments from loans, proceeds from the sale of loan assets or collateral, and other receipts arising out of transactions entered into pursuant to title II, chapter 3 of the Trade Act of 1974 shall be deposited into the economic development revolving fund established under section 203 of the Public Works and Economic Development Act of 1965 beginning October 1, 1987: *Provided,* That payments of obligations in connection with loans guaranteed under the authority of the Trade Act of 1974 or the Public Works and Economic Development Act of 1965, and any related expenses, shall be made from funds available in the economic development revolving fund: *Provided further,* That deposits to the economic development revolving fund of amounts appropriated for, or received in connection with, activities authorized under the Trade Act of 1974, made prior to October 1, 1987, shall be deemed valid deposits.

SEC. 107. Notwithstanding any other provision of law, the Secretary of Commerce is authorized to negotiate and conclude an agreement to exchange properties with the necessary private and public parties for the purpose of expanding the National Oceanic and Atmospheric Administration marine facility at Pascagoula, Mississippi.

SEC. 108. In order to maintain overseas program activity for the Department of Commerce provided for each fiscal year at the appropriated program levels, the Secretary may establish Buying Power Maintenance accounts for the International Trade Administration, the Export Administration, and the United States Travel and Tourism Administration. There are authorized to be appropriated for such accounts such sums as may be necessary to offset adverse fluctuations in foreign currency exchange rates, or unbudgeted overseas wage and price changes. To eliminate substantial gains to the approved levels of overseas operations, the Secretary shall transfer to a Buying Power Maintenance account such amounts determined to be excessive to the needs of the approved level of overseas operations because of fluctuations in foreign currency exchange rates or changes in unbudgeted overseas wages and prices, including unobligated balances associated with the overseas program. To offset adverse fluctuations in foreign currency exchange rates or unbudgeted overseas wage and price changes, the Secretary may transfer from a Buying Power Maintenance account such amounts determined to be necessary to maintain the approved level of overseas operations under an appropriation account. Funds transferred by the Secretary to or from a Buying Power Maintenance account to another account shall be merged with and be available for the same purpose, and for the same time period, as the funds in the account into which transferred. Any restriction contained in an appropriation Act or other provision of law limiting the amounts available for the Department of Commerce that may be obligated or expended shall be deemed to be adjusted to the extent necessary to offset the net effect of fluctuations in foreign currency exchange rates or unbudgeted overseas wage and price changes in order to maintain approved levels.

This title may be cited as the "Department of Commerce Appropriation Act, 1988".

TITLE II—DEPARTMENT OF JUSTICE

General Administration

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $88,360,000.

WORKING CAPITAL FUND

For additional capital, not to exceed $4,000,000, to remain available until expended, to be derived from current operating income.

United States Parole Commission

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $11,665,000.

Legal Activities

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $237,209,000, of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1989: *Provided,* That of the funds available in this appropriation, not to exceed $5,000,000 shall be available for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through Salaries and expenses, General Administration, to remain available until expended: *Provided further,* That of the funds appropriated to the Department of Justice in this Act, not to exceed $1,000,000 may be transferred to this appropriation to pay expenses related to the activities of any Independent Counsel appointed pursuant to 28 U.S.C. 591, et seq., upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees' policies concerning the reprogramming of funds: *Provided further,* That a permanent indefinite appropriation is established within the Department of Justice to pay all necessary expenses of investigations and prosecutions by independent counsel appointed pursuant to the provisions of 28 U.S.C. 591 et seq. or other law: *Provided further,* That the Comptroller General shall perform semiannual financial reviews of expenditures from the Independent Counsel permanent indefinite appropriation, and report their findings to the Committees on Appropriations of the House and Senate: *Provided further,* That not to exceed $5,000,000 may be transferred to "Salaries and expenses, general legal activities" from "Fees and expenses of witnesses": *Provided further,* That the Chief, U.S. National Central Bureau, INTERPOL, may establish and collect fees to process name checks and background records for noncriminal employment, licensing, and humanitarian purposes and, notwithstanding the provisions of 31 U.S.C. 3302, credit not more than $150,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $44,937,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, $380,339,000.

UNITED STATES TRUSTEES SYSTEM FUND

For the necessary expenses of the United States Trustees Program, $29,370,000, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554): *Provided,* That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors: *Provided further,* That the Attorney General may credit to this appropriation not more than $18,000,000 of fees available pursuant to 28 U.S.C. 589(a).

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for

field use only; and employment of aliens; $500,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft; $183,168,000: *Provided,* That notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the United States Marshals Service may collect fees and expenses for the service of civil process, including: complaints, summonses, subpoenas and similar process; and seizures, levies, and sales associated with judicial orders of execution; and credit not to exceed $1,000,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, $73,746,000, which shall remain available until expended; of which not to exceed $5,000,000 shall be available under the Cooperative Agreement Program for the purposes of renovating, constructing, and equipping State and local correctional facilities: *Provided,* That amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or in other facilities in the same correctional system, as projected by the Attorney General: *Provided further,* That following agreement on or completion of any federally assisted correctional facility construction, the availability of the space acquired for Federal prisoners with these Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; $53,015,000, to remain available until expended, of which not to exceed $1,350,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $27,858,000, of which not to exceed $20,667,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided,* That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524, as amended by the Comprehensive Forfeiture Act of 1984 and the Anti-Drug Abuse Act of 1986, such sums as may be necessary to be derived from the Department of Justice Assets Forfeiture Fund: *Provided,* That not to exceed 50 per centum of total amounts available for appropriation in fiscal year 1988 from the Department of Justice Assets Forfeiture Fund shall be obligated during fiscal year 1988 for payments pursuant to section 524(c)(1) of title 28, United States Code: *Provided further,* That such limitation shall not apply to funds transferred pursuant to section 210 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,000 passenger motor vehicles of which 1,650 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,388,492,000, of which not to exceed $10,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1989; of which not to exceed $3,000,000 for research related to investigative activities shall remain available until expended; of which not to exceed $13,000,000 for the construction of the Engineering Research Facility shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism: *Provided,* That the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further,* That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $8,000,000 for the expansion and renovation of the New York field office shall remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed 525 passenger motor vehicles of which 489 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $494,076,000, of which not to exceed $1,200,000 for research shall remain available until expended; not to exceed $1,700,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical equipment shall remain available until September 30, 1989.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 1,670, of which 490 shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $741,114,000, of which not to exceed $400,000 for research and $35,000,000 for construction shall remain available until expended: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That none of the funds available to the Immigration and Naturalization Service shall be available to administer or implement a nationwide employer telephone verification system unless the Commissioner of Immigration and Naturalization procures such system through sealed bid or competitive proposal procedures, except that this proviso shall not affect the pilot project directed in section 101(d)(4) of the Immigration Reform and Control Act of 1986, Public Law 99-603: *Provided further,* That effective February 28, 1988, none of the funds appropriated herein shall be available to detain aliens convicted of a felony under State or Federal law at the Krome processing center unless such center has been designated a security level 3 or higher level correctional facility.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 142 of which 106 are for replacement only) and hire of law enforcement and passenger motor vehicles; $719,814,000: *Provided,* That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, $9,590,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and

correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $201,676,000 to remain available until expended: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,347,000 of the funds of the corporation shall be available for its administrative expenses, and not to exceed $7,571,000 for the expenses of vocational training of prisoners, both amounts to be available for services as authorized by 5 U.S.C. 3109, and to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Justice Assistance Act of 1984, Runaway Youth and Missing Children Act Amendments of 1984, and the Missing Children Assistance Act including salaries and expenses in connection therewith, $87,383,000 to remain available until expended, of which $5,000,000 is provided for programs authorized under part E of the Justice Assistance Act of 1984, notwithstanding the provisions of section 407 of such Act, including $1,000,000 for a grant to assist in the construction of a consolidated judicial center in Owensboro, Kentucky, and including $1,025,000 for a grant to the town of Alderson, West Virginia, to assist in the expansion of the municipal water treatment system serving the Federal Correctional Institution at Alderson, West Virginia: *Provided*, That of the unobligated funds previously appropriated for the Juvenile Justice and Delinquency Prevention Act which are subject to provisions of sections 222(b), 223(d), and 228(e) of title II of such Act, $3,000,000 to remain available until expended, shall be made available for programs authorized by part E of the Justice Assistance Act of 1984, notwithstanding the provisions of section 407 of such Act. In addition, for grants as authorized by the State and Local Law Enforcement Assistance Act of 1986 (Public Law 99-570, 100 Stat. 3207-42 to 3207-48), including salaries and expenses in connection therewith, $70,000,000 to remain available until expended: *Provided further*,[2] That the Director, Bureau of Justice Assistance may increase the limitation, not to exceed 20 per centum, on administrative costs pursuant to 42 U.S.C. 3796n upon notification to the Director by States unable to comply with the limitation. In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $66,692,000 to remain available until expended, of which not less than $3,000,000 shall be allotted under subpart II of part B of the Act to assist those States deemed not in substantial compliance with the jail removal mandate found in section 224(a)(14) of the Act. In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1987 through September 30, 1988, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided further*,[2] That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1988, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further*, That the Attorney General, not later than April 1, 1988, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further*, That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $75,000 from funds appropriated to the Department of Justice in this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. Notwithstanding any other provision of law, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

SEC. 203. Appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States Marshals Service", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Drug Enforcement Administration", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1988, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1988, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1988, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if desig-

[2] Copy read "*Provided,*".

nated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1988—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operations, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are conducted, or

(ii) covert activities are concluded, whichever, occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" means any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 205. None of the funds appropriated or made available by this Act shall be used prior to October 1, 1988, to issue or implement any final rule in the rulemaking proceeding commenced August 8, 1986 (51 Fed. Reg. 28576-28589).

SEC. 206. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 207. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 208. Nothing in the preceding section shall remove the obligation of the director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 207 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 209. Notwithstanding subsections (c) and (d) of section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633), the Administrator of the Office of Juvenile Justice and Delinquency Prevention may not—

(1) terminate any State's eligibility for funding under subpart I of part B of title II of such Act, or

(2) determine that the State's plan fails to meet the requirements of such section,

for fiscal year 1988 because of the failure of such State to comply with the requirements of section 223(a)(14) of such Act before such fiscal year.

SEC. 210. (a) Section 524(c)(1) of title 28 of the United States Code is amended by deleting "and" at the end of subparagraph (F), by striking out the period at the end of (G) and inserting in lieu thereof "; and" and, by inserting the following new subparagraph:

"(H) after all reimbursements and program-related expenses have been met at the end of each fiscal year, the Attorney General may transfer deposits from the Assets Forfeiture Fund to the Building and Facilities account of the Federal prison system for the construction of correctional institutions.".

(b) Amounts proposed for transfer pursuant to subsection (a) shall be transferred only upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees' policies concerning the reprogramming of funds.

SEC. 211. Section 210(d) of the Immigration and Nationality Act is amended by inserting the following new paragraph:

"(3) No application fees collected by the Immigration and Naturalization Service (INS) pursuant to section 210(d) of the Immigration and Nationality Act (INA) may be used by the INS to offset the costs of the special agricultural worker legalization program until the INS implements the program consistent with the statutory mandate as follows:

"(A) During the application period as defined in section 210(a)(1)(A) of the INA the INS may grant temporary admission to the United States, work authorization, and provide an 'employment authorized' [3] endorsement or other appropriate work permit to any alien who presents a preliminary application for adjustment of status under subsection (a) at a designated port of entry on the southern land border. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in the INA.

"(B) During the application period as defined in section 210(a)(B)(1)(B) of the INA any alien [4] who has filed an application for adjustment of status within the United States as provided in section 210(b)(1)(A) pursuant to the provision of 8 CFR section 210.1(j) is subject to paragraph (2) of this subsection.

[5] "(C) A preliminary application is defined as a fully completed and signed application with fee and photographs which contains specific information concerning the performance of qualifying employment in the United States and the documentary evidence which the applicant intends to submit as proof of such employment. The applicant must be otherwise admissible to the United States and must establish to the satisfaction of the examining officer during an interview that his or her claim to eligibility for special agriculture worker status is credible.".

This title may be cited as the "Department of Justice Appropriation Act, 1988".

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

Notwithstanding sections 110 and 122 of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989) [6] for necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945), expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad, including not to exceed $7,000,000 for counterterrorism research and development; permanent representation to certain international organizations in which the

[3] Copy read " "employment authorized" ".
[4] Copy read "alient".
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United States participates pursuant to treaties, conventions, or specific Acts of Congress; acquisition by exchange or purchase of vehicles as authorized by law, except that special requirement vehicles may be purchased without regard to any price limitation otherwise established by law; $1,694,000,000: *Provided,* That none of these funds shall be available for the Office of Public Diplomacy for Latin America and the Caribbean.

REPRESENTATION ALLOWANCES

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for representation by United States missions to the United Nations and the Organization of American States, $4,500,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,000,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), $313,100,000, to remain available until expended: *Provided,* That the funds appropriated in this paragraph shall be available subject to the approval of the House and Senate Committees on Appropriations under said Committees' policies concerning the reprogramming of funds contained in House Report 100-182: *Provided further,* That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $4,000,000, to remain available until expended.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $11,000,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $86,000,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

Notwithstanding section 102(a) (1) through (11) of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989), for expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, $480,000,000, to remain available until expended: *Provided,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, $29,400,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations, and personal services without regard to civil service and classification laws, $6,000,000, to remain available until expended, of which not to exceed $200,000 may be expended for representation as authorized by law.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, conventions, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the United States and Mexico International Boundary and Water Commission, and to comply with laws applicable to the United States Section; and leasing of private property to remove therefrom sand, gravel, stone, and other materials, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, operation and maintenance of the interceptor system to be constructed to intercept sewage flows from Tijuana and from selected canyon areas as currently planned, and the operation and maintenance upon completion of the proposed Environmental Protection Agency and Corps of Engineers pipeline and plant project to capture Tijuana sewage flows in the event of a major breakdown in Mexico's conveyance system, $10,261,000: *Provided,* That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89): *Provided further,* That the Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the cost of said dam as shall have been allocated to such purposes by the Secretary of State: *Provided further,* That not to exceed $500,000 of the amount appropriated in this paragraph shall be available to reimburse the city of San Diego, in the State of California, for expenses incurred in treating domestic sewage received from the city of Tijuana, in the State of Baja California, Mexico.

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For detailed plan preparation and construction of authorized projects, including the Rio Grande Rectification Improvement project, to remain available until expended, $3,166,000: *Provided,* That activities for the New River project may be financed from these funds or from carryover balances under the heading, "International Boundary and Water Commission, United States and Mexico, Construction".

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 for necessary expenses, not otherwise provided for, including not to exceed $6,000 for representation, $4,316,000; for the International Joint Commission, including salaries and expenses of the Commissioners on the part of the United States who shall serve at the pleasure of the President; salaries of employees appointed by the Commissioners on the part of the United States with the approval solely of the Secretary of State; travel expenses and compensation of witnesses; and the International Boundary Commission, for necessary expenses, not otherwise provided for, including expenses required by awards to the Alaskan Boundary Tribunal and existing treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, $10,548,000: *Provided,* That the United States share of such expenses may be advanced to the respective commissions.

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For expenses, not otherwise provided for, to enable the United States to participate in programs of scientific and technological cooperation with Yugoslavia, $1,900,000, to remain available until expended.

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, $13,700,000, to remain available until expended.

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses not otherwise provided to enable the Secretary of State to reimburse private firms and American institutions of higher education for research contracts and graduate training for development and maintenance of knowledge about the Soviet Union and Eastern European countries, $4,600,000.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of section 7 of the Fishermen's Protective Act of 1967, as amended, $1,725,000 to be derived from the receipts collected pursuant to that Act, to remain available until expended.

FISHERMEN'S PROTECTIVE FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $959,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as

authorized by subchapter [7] 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger or freight transportation.

SEC. 302. The Secretary of State shall report to the appropriate committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every month beginning January 1, 1988.

SEC. 303. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a total of $290,000 for each fiscal year to carry out (in accordance with the respective authorization amounts) paragraph (2) of the first section of Public Law 74-170, section 2(2) of Public Law 84-689, section 2 of Public Law 86-42, and section 2 of Public Law 86-420. These funds may be disbursed to each delegation, pursuant to vouchers in accordance with the applicable provisions of law, at any time requested by the Chairman of the delegation after that fiscal year begins. Section 2 of Public Law 84-689 is amended by striking out "annually," and inserting in lieu thereof "annually (1)", by striking out "$50,000, $25,000" and inserting in lieu thereof "(2) $100,000, $50,000", and by striking out "and $25,000" and inserting in lieu thereof "and $50,000".

SEC. 304. The Secretary of State shall not permit the Soviet Union to occupy the new chancery building at its new embassy complex in Washington D.C. or any other new facility in the Washington, D.C. metropolitan area, until a new chancery building is ready for occupancy for the United States embassy in Moscow: *Provided,* That none of the funds appropriated in this Act or any prior Act may be obligated for the new office building in Moscow except for engineering and technical studies prior to October 1, 1988.

SEC. 305. The following sections of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989) are waived during fiscal years 1988 and 1989 in the event that H.R. 1777 is enacted into law: sections 122, 151, and 204.

This title may be cited as the "Department of State Appropriation Act, 1988".

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase, or hire, driving, maintenance and operation of an automobile for the Chief Justice and not to exceed $10,000 for the purpose of transporting Associate Justices, hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $15,247,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract, and for security installations both without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); $2,110,000, of which $75,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for all necessary expenses of the court, $7,430,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, including exchange of books and traveling expenses, as may be approved by the court; $7,768,000: *Provided,* That travel expenses of judges of the Court of International Trade shall be paid upon written certificate of the judge.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and all necessary expenses of the courts, including the purchase of firearms and ammunition, $1,081,447,000: *Provided,* That, of the total amount appropriated, $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions: *Provided further,* That the number of staff attorneys to be appointed in each of the courts of appeals shall not exceed the ratio of one attorney for each authorized judgeship, exclusive of the seven attorneys assigned preargument conference duties: *Provided further,* That such sums as may be available in the fund established pursuant to 28 U.S.C. 1931 may be credited to this appropriation.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by law; $85,100,000 to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses and refreshments of jurors; compensation of jury commissioners; and compensation of commissioners appointed in condemnation cases pursuant to Rule 71A(h) of the Federal Rules of Civil Procedure; $43,135,000, to remain available until expended: *Provided,* That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities; $40,853,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts, including travel, advertising, hire of a passenger motor vehicle, and rent in the District of Columbia and elsewhere, $31,167,000, of which an amount not to exceed $5,000 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $10,548,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $5,129,000.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 403. The position of Trustee Coordinator in the Bankruptcy Courts of the United States shall not be limited to persons with formal legal training.

SEC. 404. Notwithstanding any other provision of law, the Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. The Director of the Administrative Office of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives. The provisions of this paragraph shall terminate on October 1, 1988.

SEC. 405. Such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and

[7] Copy read "subchapters".

Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

SEC. 406. Pursuant to section 140 of Public Law 97-92, during fiscal year 1988, justices and judges of the United States shall receive the same percentage increase in salary accorded to employees paid under the General Schedule (pursuant to 5 U.S.C. 5305).

SEC. 407. Section 1344(b)(1) of title 31, United States Code, is amended by inserting—

"(2) The Chief Justice and Associate Justices of the Supreme Court;" and redesignating subsections (2) and (3) as subsections (3) and (4), respectively.

SEC. 408. (a) Section 153(a) of title 28, United States Code, is amended to read as follows:

"(a) Each bankruptcy judge shall serve on a full-time basis and shall receive as full compensation for his services, a salary at an annual rate that is equal to 92 percent of the salary of a judge of the district court of the United States as determined pursuant to section 135, to be paid at such times as the Judicial Conference of the United States determines.".

(b) Section 634(a) of title 28, United States Code, is amended by amending the first sentence to read as follows:

"(a) Officers appointed under this chapter shall receive, as full compensation for their services, salaries to be fixed by the conference pursuant to section 633, at rates for full-time United States magistrates up to an annual rate equal to 92 percent of the salary of a judge of the district court of the United States, as determined pursuant to section 135, and at rates for part-time magistrates of not less than an annual salary of $100, nor more than one-half the maximum salary payable to a full-time magistrate.".

(c) Section 225(C) of the Federal Salary Act of 1967 (2 U.S.C. 356(c)) is amended by striking out "and magistrates and" and inserting in lieu thereof "except bankruptcy judges, but including".

(d) This section shall become effective October 1, 1988, and any salary affected by the provisions of this section shall be adjusted at the beginning of the first applicable pay period commencing on or after such date of enactment.

SEC. 409. Section 603 of title 28, United States Code, is amended by striking the second sentence and inserting in lieu thereof the following: "The salaries of the Deputy Director and of three additional positions shall be [8] fixed by the Director at rates not to exceed the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5.".

This title may be cited as "The Judiciary Appropriation Act, 1988".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES (LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $250,300,000, to remain available until expended.

OCEAN FREIGHT DIFFERENTIAL

Such sums as may be necessary for fiscal year 1988 and thereafter are hereby appropriated to liquidate debt and pay interest due to the Secretary of the Treasury, as required by section 901d, Merchant Marine Act, 1936.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $75,521,000, to remain available until expended: *Provided,* That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program: *Provided further,* That in addition to any amount heretofore appropriated, $10,000,000 of the funds appropriated in this paragraph shall be available for the activation and conversion costs of a training vessel for the State University of New York Maritime College: *Provided further,* That the second sentence of the paragraph under this heading in chapter II of title I of the Act of August 22, 1984 (98 Stat. 1372), is amended by deleting "preconversion" and inserting in lieu thereof "activation and conversion", by inserting a period after the word "expended", and by deleting the remainder of the sentence: *Provided further,* That hereafter such training vessel shall be subject to a plan for sharing training vessels approved by the Secretary of Transportation, if such plan is deemed necessary: *Provided further,* That hereafter no funds shall be appropriated for the purchase or construction of training vessels for State maritime academies unless a plan for sharing training vessels between State maritime academies has been approved by the Maritime Administration.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: *Provided,* That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act, or in any prior appropriation Act and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $48,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $30,100,000 of which $2,600,000 shall be transferred to the Department of Energy for the Reduced Enrichment in Research and Test Reactor Program.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., $185,000,000, of which $20,000,000, to remain available until expended, shall become available for expenditure on October 1, 1988, and of which not to exceed $52,000 may be made available for official reception and representation expenses.

ISRAEL RADIO RELAY STATION

There is hereby appropriated the sum of $34,000,000, to remain available until expended, to the Board for International Broadcasting for the purpose of making and overseeing grants to Radio Free Europe/Radio Liberty, Incorporated, and its subsidiaries and of making payments as necessary in order to begin implementation of the agreement signed on June 18, 1987, between the United States Government and the Government of Israel to establish and operate a radio relay station in Israel for use by Radio Free Europe/Radio Liberty and the Voice of America.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission, $212,000, to remain available until November 15, 1992.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution authorized by Public Law 98-101 (97 Stat. 719-723), $16,000,000 to remain available until expended, of which $6,250,000 is for carrying out the provisions of Public Law 99-194, including $2,850,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $3,400,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act, and in addition, $1,000,000 to remain available until expended, is provided for a grant to the National Trust for Historic Preservation for the purpose of making urgently needed repairs necessary to preserve James Madison's Montpelier from the threat of destruction by fire and structural deterioration, and provide for necessary public health and safety, and in addition, $1,000,000 is provided for a grant to the We The People 200 Committee: *Provided,* That not to exceed a total of $1,250,000 from appropriations provided to the Commission on the Bicentennial of the United States Constitution for fiscal years 1985 through 1988 is available for educational programs about the Constitution and the Bill of Rights below the university level not provided for elsewhere in this Act: *Provided further,* That until the Board of Trustees of the James Madison Memorial Fellowship Foundation is appointed, the Commission on the Bicentennial of the United States Constitution is authorized to receive, review and certify for payment the applications for grants of endowment funds for the establishment of Constitutional Law Resource Centers as provided and appropriated under the James Madison Memorial Fellowship Act, title VIII, sections 817 and 818, Public Law 99-500 and Public Law 99-591; and the authority to make grants to carry out an educational program for the Commemoration of the Bicentennial of the Constitution of the United States and the Bill of Rights, enacted under title V, section 501 of Public Law 99-194, is amended by (i) striking the period at the end of section 501(a)(2)(B), inserting a semicolon and the word "and", and (ii) adding the fol-

[8] Copy read "shall be be fixed".

lowing: "(C) is authorized to make grants for the establishment of Constitutional Law Resource Centers in accordance with the terms of title VIII, sections 817 and 818 of Public Law 99-500 and Public Law 99-591, and is authorized to make grants to two University Centers in accordance with the terms of Amendment Numbered 70 of Conference Report 99-236 (Public Law 99-88 [99 Stat. 305]).": *Provided further,* That there is hereby appropriated for each recipient University Center named in Amendment Numbered 70 of Conference Report 99-236 (Public Law 99-88 [99 Stat. 305]) an additional $1,500,000 to remain available until expended for the endowment funds created pursuant to such Act and to be used under the same conditions and requirements set forth therein and such Bicentennial Commission or Board of Trustees referred to above is authorized to receive, review and certify for payment the applications for said grants.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $5,707,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities: *Provided,* That not to exceed $20,000 may be used to employ consultants: *Provided further,* That not to exceed $185,000 may be used to employ temporary or special needs appointees: *Provided further,* That none of the funds shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service, exclusive of one special assistant for each Commissioner whose compensation shall not exceed the equivalent of 150 billable days at the daily rate of a level 11 salary under the General Schedule: *Provided further,* That not to exceed $40,000 shall be available for new, continuing or modifications of contracts for performance of mission-related external services: *Provided further,* That none of the funds shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days: *Provided further,* That the General Accounting Office shall perform a mid-year audit of the Commission to determine compliance with this section and shall report its findings to the Appropriations Committees of the Senate and House of Representatives by June 1, 1988.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $701,000, to remain available until expended: *Provided,* That not to exceed $6,000 of such amount shall be available for official reception and representation expenses.

COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Commission for the Study of International Migration and Cooperative Economic Development as authorized by title VI of Public Law 99-603, $870,000, to remain available until expended.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $20,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $179,812,000: *Provided,* That the final rule regarding unsupervised waivers under the Age Discrimination in Employment Act, issued by the Commission on August 27, 1987 (29 CFR sections 1627.16 (c) (1)-(3)), shall not have effect during fiscal year 1988: *Provided further,* That none of the funds may be obligated or expended by the Commission to give effect to any policy or practice pertaining to unsupervised waivers under the Age Discrimination in Employment Act.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $300,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses: purchase (not to exceed ten) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $99,613,000, of which not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1989, for research and policy studies: *Provided,* That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority and women ownership of broadcasting licenses, including those established in Statement of Policy on Minority Ownership of Broadcast Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 60 F.C.C. 2d 607 Rev. Bd. (1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86-484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: *Provided further,* That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further,* That none of the funds appropriated by this Act or any other Act may be used to repeal, to retroactively apply changes in, or to begin or continue a re-examination of the rules of the Federal Communications Commission with respect to the common ownership of a daily newspaper and a television station where the grade A contour of the television station encompasses the entire community in which the newspaper is published, or to extend the time period of current grants of temporary waivers to achieve compliance with such rules: *Provided further,* That no funds appropriated to the Federal Communications Commission shall be used prior to March 22, 1988 to accept or grant any applications to construct or operate cellular systems in rural service areas.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; $13,585,000: *Provided,* That not to exceed $1,500 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; the sum of $66,243,000: *Provided,* That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374).

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $34,750,000.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,200,000, to remain available until expended; and an amount of Japanese currency not to exceed the equivalent of $1,700,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: *Provided,* That not to exceed a total of $3,500 of such amounts shall be available for official reception and representation expenses.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $305,500,000 of which $261,294,000 is for basic field programs, $7,022,000 is for Native American programs, $9,698,000 is for migrant programs, $1,100,000 is for law school clinics, $1,000,000 is for supplemental field programs, $624,000 is for regional training centers, $7,228,000 is for national support, $7,843,000 is for State support, $865,000 is for the Clearinghouse, $510,000 is for computer assisted legal research regional centers, and $8,316,000 is for Corporation management and administration: *Provided,* That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any

of the provisions of Public Law 99-180 and section 112 of Public Law 99-190: *Provided further,* That the funds distributed to each grantee funded in fiscal year 1988 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1988 at not less than 1 per centum more than the annual level at which each grantee and contractor was funded in fiscal year 1987 or $8.30 per poor person within its geographical area under the 1980 Census, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under the first priority above, falls below $14.56 per poor person within its geographical area under the 1980 census:

Provided further, That if funds become available because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs, to be distributed in the manner specified by this paragraph, if the Appropriations Committees of both Houses of Congress have been notified pursuant to section 608 of this Act: *Provided further,* That the Corporation shall utilize the same formula for distribution of fiscal year 1988 migrant funds as was used in fiscal year 1987: *Provided further,* That none of the funds appropriated by this Act or prior Acts may be used by an officer, board member, employee or consultant of the Corporation to implement or enforce provisions in the regulation regarding legislative and administrative advocacy and training (Part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds received by a recipient for the provision of legal assistance except to the extent that such restrictions are explicitly authorized by sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the LSC Act: *Provided further,* That the Corporation shall not impose requirements on governing bodies of recipients that are additional to, or more restrictive than, the provisions of Public Law 99-180 and section 1007(c) of the Legal Services [9] Corporation Act including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of, board members and (2) the size, quorum requirements, and committee operations of such governing bodies.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $953,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $15,229,000, of which $1,000,000 shall remain available until expended: *Provided,* That not to exceed $69,000 shall be available for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $9,000 for official reception and representation expenses, $135,221,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Association of Securities Commissioners.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration, including hire of passenger motor vehicles and not to exceed $2,500 for official reception and representation expenses $175,832,000; and for grants for performance in fiscal year 1988 or fiscal year 1989 for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended, $40,000,000: *Provided,* That not more than $350,000 of this amount shall be made available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: *Provided further,* That none of the funds appropriated or made available by this Act or otherwise appropriated or made available to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648) nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987, unless specifically approved by the Committees on Appropriations under reprogramming procedures; nor may any of such funds be used to restrict in any way the right of association of participants in such program: *Provided further,* That the staffing levels at the Small Business Administration District Office, Clarksburg, West Virginia and the Small Business Administration Branch Office, Charleston, West Virginia, shall be maintained at the same levels that were in place as of August 30, 1987. In addition, $88,228,000 for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund".

None of the funds made available under this joint resolution or any subsequent appropriations Act for fiscal year 1988 for the Small Business Administration shall be used to promulgate final regulations adjusting numerical size standards as required by section 921 (f) and (h) of Public Law 99-661 and section 921 (f) and (h) of Public Law 99-591 prior to May 31, 1988.

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster Loan Fund", the "Business Loan and Investment Fund", the "Lease Guarantees Revolving Fund", the "Pollution Control Equipment Contract Guarantees Revolving Fund", and the "Surety Bond Guarantees Revolving Fund".

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $91,000,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $85,000,000, to remain available without fiscal year limitation.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $9,497,000, to remain available without fiscal year limitation.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $13,656,000, to remain available without fiscal year limitation.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by Public Law 98-620, $10,980,000, to remain available until expended.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $270,000, of which $250,000 is to facilitate United States participation in international expositions abroad); expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000; $620,347,000, none of which shall be restricted from use for the purposes appropriated herein and of which $36,900,000 shall be available for the Television and Film Service: *Provided,* That not to exceed $1,070,000 may be used for representation abroad: *Provided further,* That not to exceed $14,557,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further,* That not to exceed $500,000 shall remain available until expended, for expenses (in-

[9] Copy read "Legal Service".

cluding those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of such data processing and administrative services as the Director determines may be performed advantageously and more economically as central services: *Provided further,* That not to exceed $3,650,000 may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion picture, and television programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further,* That the funds appropriated by this paragraph shall be available notwithstanding sections 201(2) and 204 of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989) whenever it or alternative authorization legislation is enacted and notwithstanding section 701 of the United States Information and Educational Exchange Act of 1948, as amended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

Notwithstanding section 301(a) (1) through (7) of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989), for expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs, as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), $142,310,000: *Provided,* That not less than $540,000 shall be made available to the Institute for Representative Government for a pilot program for exchanges of persons and other exchange-related activities with legislators and legislatures of developing democracies: *Provided further,* That not less than $2,000,000 shall be made available for a grant to the Oregon Historical Society to assist in the establishment of the North Pacific Research Center in Portland, Oregon. For the Private Sector Exchange Programs, $7,730,000 of which $500,000 shall be available only for the Seattle Goodwill Games Organizing Committee for Cultural Exchange and other exchange-related activities associated with the 1990 Goodwill Games to be held in Seattle, Washington.

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, $12,759,000, to remain available until expended, of which not to exceed $100,000 shall be available for the Advisory Board on Radio Broadcasting to Cuba for a feasibility study on television broadcasting to Cuba.

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,000,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the highest rate authorized in the General Schedule of the Classification Act of 1949, as amended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $16,875,000.

ADMINISTRATIVE PROVISION—UNITED STATES INFORMATION AGENCY

The United States Information Agency and the Voice of America shall pursue all relevant information relating to the availability of transmitters and antennas, spare parts, and other technical equipment to determine whether such items can be procured at reasonable prices and in a timely manner under all foreseeable circumstances. The agency and the Voice of America shall purchase American-manufactured equipment and materials to the fullest extent reasonably possible under the law in carrying out the facilities modernization program. This provision shall apply to all funds which are obligated for the facilities modernization program during fiscal year 1988. Where a foreign bidder receives any governmental subsidy, the price bid of each foreign bidder shall be increased by the amount of that subsidy as determined by the Department of Commerce for purposes of this procurement.

GENERAL PROVISIONS—RELATED AGENCIES

Funds appropriated to the United States Information Agency for radio construction and to the Board for International Broadcasting for facility modernization, including for both agencies balances available from prior years, may be transferred between the two agencies to meet priority broadcasting facility improvement needs as mutually agreed to by the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting: *Provided,* That such transfers will be subject to the approval of the Committees on Appropriations of the House of Representatives and the United States Senate pursuant to the reprogramming provisions of section 608 of this Act.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. None of the funds appropriated in titles II and V of this Act may be used for any activity to alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws: *Provided,* That nothing in this provision shall prohibit any employee of a department or agency for which funds are provided in titles II and V of this Act from presenting testimony on this matter before appropriate committees of the House and Senate.

SEC. 606. None of the funds appropriated by this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion.

SEC. 607. No funds appropriated under this Act may be used to procure any item or service from a foreign entity which engages, directly or indirectly, in activities which, if it were a United States person, would violate section 8 of the Export Administration Act of 1979 (50 U.S.C. Appendix, section 2401 et seq.). [10]

SEC. 608. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 609. No funds appropriated under this Act may be used to sell direct loans which are held by the Small Business Administration or any loan guaranty or debenture guaranty made by the Small Business Administration under the authority contained in the Small Business Investment Act of 1958, and which was held by the Federal Financing Bank on September 30, 1987.

SEC. 610. (a) Unless specifically permitted by subsequently enacted legislation, none of the funds appropriated or made available by this Act to the Small Business Administration may be used—

(1) to impose a user fee in connection with a Small Business Administration program or service for which no user fee was in effect on September 1, 1987, or

(2) to increase a user fee which was in effect in connection with such a program or service on such date.

TITLE VII—CUBAN POLITICAL PRISONERS AND IMMIGRANTS

SEC. 701. This title may be cited as "Cuban Political Prisoners and Immigrants".

SEC. 702. (a) PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.—In light of the announcement of the Government of

[10] Copy read "et seq.)".

Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of enactment of this Act, consular officer of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

(b) PROCESSING OF IMMIGRANT VISA APPLICATIONS OF CUBAN NATIONALS IN THIRD COUNTRIES.—Notwithstanding section 212(f) and section 243(g) of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term "refugee" has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

TITLE VIII—INDOCHINESE REFUGEE RESETTLEMENT AND PROTECTION ACT OF 1987

SEC. 801. This title may be cited as the "Indochinese Refugee Resettlement and Protection Act of 1987".

SEC. 802. (a) FINDINGS.—It is the sense of the Congress that—

(1) the continued occupation of Cambodia by Vietnam and the oppressive conditions within Vietnam, Cambodia, and Laos have led to a steady flight of persons from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region's camps is negligible for the foreseeable future;

(2) the United States has already played a major role in responding to the Indochinese refugee problem by accepting approximately 850,000 Indochinese refugees into the United States since 1975 and has a continued interest in persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand have been the front line countries bearing tremendous burdens caused by the flight of these persons;

(4) all members of the international community bear a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of slow and limited procedures, failure to implement effective policies for the region's "long-stayer" populations, failure to monitor adequately refugee protection and screening programs, particularly along the Thai-Cambodian and Thai-Laotian borders, and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure from Vietnam for refugees, including Amerasians and long-held "reeducation camp" prisoners;

(5) the Government of Thailand should be complimented for allowing the United States to process ration card holders in Khao I Dang and potentially qualified immigrants in Site 2 and in Khao I Dang;

(6) given the serious protection problem in Southeast Asian first asylum countries and the need to preserve first asylum in the region, the United States should continue its commitment to an ongoing, generous admission and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved;

(7) the executive branch should seek adequate funding levels to meet United States policy objectives to ensure the well-being of Indochinese refugees in first asylum, and to process 29,500 Indochinese refugees within the overall refugee admissions level of 68,000 as determined by the President; and

(8) the Government of Thailand should be complimented for the progress that has been made in implementing an effective antipiracy program.

(b) RECOMMENDATIONS.—The Congress finds and recommends the following with respect to Indochinese refugees:

(1) The Secretary of State should urge the Government of Thailand to allow full access by highland refugees to the Lao Screening Program, regardless of the method of their arrival or the circumstances of their apprehension, and should intensify its efforts to persuade the Government of Laos to accept the safe return of persons rejected under the Lao Screening Program.

(2) Refugee protection and monitoring activities should be expanded along the Thai-Laotian border in an effort to identify and report on incidents of refugees forcibly repatriated into Laos.

(3) The Secretary of State should urge the Government of Thailand to address immediately the problems of protection associated with the Khmer along the Thai-Cambodian border. The Government of Thailand, along with appropriate international relief agencies, should develop and implement a plan to provide for greater security and protection for the Khmer at the Thai border.

(4) The international community should increase its efforts to assure that Indochinese refugee camps are protected, that refugees have access to a free market at Site 2, and that international observers and relief personnel are present on a 24-hour-a-day basis at Site 2 and any other camp where it is deemed necessary.

(5) The Secretary of State should make every effort to identify each person at Site 2 who may qualify for admission to the United States as an immigrant and for humanitarian parole.

(6) The United Nations High Commissioner for Refugees should be pressed to upgrade staff presence and the level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region, and to pursue voluntary repatriation possibilities in cases where monitoring is available and the safety of the refugees is assured.

(c) ALLOCATIONS OF REFUGEE ADMISSIONS.—Given the existing connection between ongoing resettlement and the preservation of first asylum, the United States and the United Nations High Commissioner for Refugees should redouble efforts to assure a stable and secure environment for refugees while dialog is pursued on other long-range solutions, it is the sense of the Senate that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should allocate—

(A) at least 28,000 admissions from East Asia, first-asylum camps,

(B) at least 8,500 admissions for the Orderly Departure Program, for each of the fiscal years 1988, 1989, and 1990; and

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam pursuant to paragraph (1)(B), admissions allocated in a fiscal year under priorities II and III of the program (as defined in the Department of State Bureau for Refugee Programs worldwide processing priorities) and the number of admissions allocated for Amerasians and their immediate family members under priority I, should be generous.

(d) INTERNATIONAL SOLUTIONS TO REFUGEE PROBLEMS.—It is the sense of the Congress that—

(1) renewed international efforts must be taken to address the problem of Indochinese refugees who have lived in camps for 3 years or longer; and

(2) the Secretary of State should urge the United Nations High Commissioner for Refugees to organize immediately an international conference to address the problems of Indochinese refugees.

SEC. 803. REPORTING REQUIREMENT.—The President shall submit a report to Congress within 180 days after the date of the enactment of this Act on the respective roles of the Immigration and Naturalization Service and the Department of State in the refugee program with recommendations for improving the effectiveness and efficiency of the program.

SEC. 804. FINDINGS AND DECLARATIONS.—The Congress makes the following findings and declarations:

(a) Thousands of children in the Socialist Republic of Vietnam were fathered by American civilians and military personnel.

(b) It has been reported that many of these Amerasian children are ineligible for ration cards and often beg in the streets, peddle black market wares, or prostitute themselves.

(c) The mothers of Amerasian children in Vietnam are not eligible for government jobs or employment in government enterprises and many are estranged from their families and are destitute.

(d) Amerasian children and their families have undisputed ties to the United States and are of particular humanitarian concern to the United States.

(e) The United States has a longstanding and very strong commitment to receive the Amerasian children in Vietnam, if they desire to come to the United States.

TITLE IX—ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE

SEC. 901. This title may be cited as "Adjustment to Lawful Resident Status of Certain Nationals of Countries for Which Extended Voluntary Departure Has Been Made Available".

SEC. 902. (a) ADJUSTMENT OF STATUS.—The status of any alien who is a national of a foreign country the nationals of which were provided (or allowed to continue in) "extended voluntary departure" by the Attorney General on the basis of a nationality

the factual and legal sufficiency of the Environmental Impact Statement under the National Environmental Policy Act of 1969.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $447,747,000: *Provided*, That $60,664,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided further*, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 25 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided*, That appropriations herein and hereafter made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Geological Survey, and that within appropriations herein and hereafter provided, Geological Survey officials may authorize either direct procurement of or reimbursement for expenses incidental to the effective use of volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment, and supplies: *Provided further*, That provision for such expenses or services is in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local government: *Provided further*, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $168,717,000, of which not less than $50,179,000 shall be available for royalty management activities including general administration: *Provided*, That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further*, That of the above enacted amounts, $250,000 proposed for data gathering to help determine the boundary between State and Federal lands offshore of Alaska shall be available only if an equal amount is provided by the State of Alaska from State revenues to match the Federal support for this project: *Provided further*, That none of the funds in this Act may be used to implement a rule which modifies NTL-5 until such time as H.R. 3479, or similar legislation, is enacted into law: *Provided further*, That audits may proceed but the Minerals Management Service shall take no action to collect unpaid or underpaid royalties on natural gas production from Federal onshore or Indian leases between January 1, 1982, and July 31, 1986, plus applicable interest, based on a value of production in excess of the lessee's gross proceeds (or minimum value required by the applicable lease terms and regulations in titles 25 and 30 of the CFR) until such time as legislation affecting NTL-5 for that period is enacted.

Subsection (g)(5)(A) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(5)(A)) is amended—

(1) by striking out "such account" in the second sentence and inserting in lieu thereof "an escrow account established pursuant to an agreement under section 7";

(2) by designating the indented clause as clause (ii);

(3) in the first sentence of the clause (ii) by striking "any" and inserting in lieu thereof "a", by striking out "all" and by inserting in lieu thereof "any additional", and by inserting "or credited to" before "the escrow account"; and

(4) by inserting before clause (ii) the following new clause:

"(i) Twenty-seven percent of all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978, of any tract which lies wholly within three nautical miles of the seaward boundary asserted by the Federal Government in the boundary dispute, together with all accrued interest thereon, shall be paid to the State either—

"(I) within thirty days of December 1, 1987, or

"(II) by the last business day of the month following the month in which those revenues are deposited in the Treasury, whichever date is later.".

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $146,398,000, of which $88,259,000 shall remain available until expended: *Provided*, That not more than $1,890,000 of the amount appropriated may be used for executive direction: *Provided further*, That none of the funds in this or any other Act may be used for the closure or consolidation of any research centers or the sale of any of the helium facilities currently in operation: *Provided further*, That of the sums provided under this head, $1,200,000 shall be available to the Mississippi Mineral Resources Institute of the University of Mississippi and the Center of Ocean Resources Technology of the University of Hawaii for a Marine Minerals Technology Center, equally divided: *Provided further*, That notwithstanding any other provision of law, the Bureau of Mines is authorized, in consultation with the General Services Administration, to immediately enter into a two year lease purchase agreement for the Bureau of Mines research center located in Spokane, Washington.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided*, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; $102,125,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1988: *Provided*, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States in fiscal year 1988, moneys collected pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977: *Provided further*, That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in NWR v. Miller, C.A. No. 86-99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only,

$199,380,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided,* That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further,* That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: *Provided further,* That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further,* That the Secretary of the Interior may deny 50 percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further,* That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87: *Provided further,* That 23 full time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $970,756,000, of which not less than $47,787,000 shall remain available until expended for contract support for contracts entered into under Public Law 93-638; and of which not to exceed $51,121,000 for higher education scholarships and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), and $25,000,000 for firefighting shall remain available for obligation until September 30, 1989, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1989: *Provided,* That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $1,971,000, to remain available until expended: *Provided further,* That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further,* That the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be distributed on the same basis as such funds were distributed in fiscal year 1986: *Provided further,* That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, the amounts appropriated for fiscal year 1988 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available to operate the Institute until the Board of Regents and President of the Institute have been named and had an opportunity to organize, and for use under part A of that Act: *Provided further,* That the savings realized by the Bureau of Indian Affairs from the transfer of fish hatcheries to the United States Fish and Wildlife Service shall be available for cyclical maintenance of tribally-owned fish hatcheries and related facilities: *Provided further,* That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress: *Provided further,* That none of the funds contained in this Act shall be available for any payment to any school to which such school would otherwise be entitled pursuant to section 1128(b) of Public Law 95-561, as amended, until after July 1, 1988: *Provided further,* That the Secretary shall take no action to close the school or dispose of the property of the Phoenix Indian School until the Congress has specifically approved the school closure or provided for disposition of the property in legislation: *Provided further,* That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled, and the tribe or individual has been provided with an accounting of such funds, and the appropriate Committees of the Congress and the tribes have been consulted with as to the terms of the proposed contract or agreement: *Provided further,* That none of the funds in this Act shall be used to implement any regulations, or amendments to or revisions of regulations, relating to the Bureau of Indian Affairs' higher education grant program that were not in effect on March 1, 1987: *Provided further,* That none of the funds in this Act shall be used to implement proposed initiatives to transfer any school operated by the Bureau to the control of any tribe, State, or local government agency (except that this prohibition shall not apply with respect to the transfer of a Bureau-operated school to the control of an Indian tribe under a contract entered into under the Indian Self-Determination and Education Assistance Act if the governing body of the Indian tribe approves of the transfer); to charge tuition at Bureau post-secondary schools; to implement the proposed economic self-assistance initiative (except for a limited demonstration program); to change the method of funding tribal contractor indirect costs, including imposition of a flat rate for contract support costs; to make available to the Bureau administrative deductions collected from Indian timber sales; to contract out the administration of the Bureau forestry program or any other Bureau-operated programs without prior approval of the Committees on Appropriations; or to implement any reorganizations, including "regionalization" of programs, without the prior approval of the Committees on Appropriations: *Provided further,* That Public Law 99-349 is amended by deleting under the heading "Bureau of Indian Affairs, Operation of Indian Programs" the second, third, and fourth provisos and substituting: "*Provided further,* That the funds appropriated hereunder shall be used pursuant to the consent decree and subsequent court orders in United States v. Michigan (M-26-73).": *Provided further,* That $120,000 of the amounts provided for education program management shall be available for a grant to the Close Up Foundation.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, $83,225,000, to remain available until expended: *Provided,* That of this amount, up to $6,400,000 shall be made available for planning, design and construction of the Choctaw Central School in Mississippi: *Provided further,* That the portion of the $6,400,000 related to construction shall not be released until (1) an application for the new school has been submitted to the Bureau of Indian Affairs and the Office of Construction Management; (2) the application has been reviewed and ranked on the school construction priority system; and (3) the planning and design for the new school has been completed: *Provided further,* That $1,482,000 of the funds appropriated for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719; 25 U.S.C. 640d-14(d)(3)), may be used for counseling, archeological clearances, water pro-

duction and administration related to the relocation of Navajo families: *Provided further,* That $1,500,000 of the funds made available in this Act shall be available for rehabilitation of tribally-owned fish hatcheries and related facilities: *Provided further,* That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further,* That none of the funds available in this Act may be used to implement any regulations, or amendments to or revisions of regulations, relating to the Bureau of Indian Affairs' housing improvement program that were not in effect on October 1, 1986.

ROAD CONSTRUCTION

For construction of roads and bridges pursuant to authority contained in 23 U.S.C. 203, the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), and the Act of May 26, 1928 (45 Stat. 750; 25 U.S.C. 318a), $1,000,000 for the Honobia Indian Road in Oklahoma, to remain available until expended: *Provided,* That not to exceed 5 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs.

MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals pursuant to Public Laws 98-500, 99-264, and 99-503, including funds for necessary administrative expenses, $13,340,000, to remain available until expended: *Provided,* That not to exceed $10,700,000 is made available to the Tohono O'Odham Nation for purposes authorized in the Gila Bend Indian Reservation Lands Replacement Act, Public Law 99-503.

MISCELLANEOUS TRUST FUNDS

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is appropriated in fiscal year 1988 and thereafter to the Secretary of the Interior for the benefit of the tribes on whose behalf such funds were collected, not to exceed $1,000,000 in each fiscal year from tribal funds not otherwise available for expenditure.

REVOLVING FUND FOR LOANS

During fiscal year 1988, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed resources and authority available.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $3,085,000, to remain available until expended: *Provided,* That during fiscal year 1988, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974, as amended, may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits, and purchase of not to exceed 150 passenger carrying motor vehicles, of which 100 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $78,235,000 of which (1) $75,287,000 shall be available until expended for technical assistance; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; construction grants to the Government of the Virgin Islands as authorized by Public Law 97-357 (96 Stat. 1709); construction grants to the Government of Guam, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $2,948,000 for salaries and expenses of the Office of Territorial and International Affairs: *Provided,* That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further,* That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further,* That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396: *Provided further,* That funds previously appropriated under this head for a loan to the Government of the United States Virgin Islands, for construction of an extension to the Alexander Hamilton Airport runway, St. Croix, shall be available for issuance of the loan without approval of a multiyear grant of Airport Improvement Program funds from the Federal Aviation Administration: *Provided further,* That $540,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation: *Provided further,* That of the total appropriation $500,000 shall be available for the establishment of a disaster contingency fund.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants for the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; grants for the compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $41,940,000, of which $33,940,000 is for operations including $12,350,000 for payment of claims pursuant to the Micronesian Claims Act of 1971: *Provided,* That section 105 of Public Law 95-134 (91 Stat. 1159) is amended by inserting after the word "Islands" the words "(TTPI), or TTPI constituent or successor governments,"; and of which $8,000,000 is for construction, to remain available until expended: *Provided further,* That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further,* That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $33,620,000, including $2,500,000 for the Enjebi Community Trust Fund, to remain available until expended, as authorized by Public Law 99-239: *Provided,* That notwithstanding the provisions of Public Laws 99-500 and 99-591, the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99-658, shall be the effective date of the Palau Compact as determined pursuant to section 101(d) of Public Law 99-658: *Provided further,* That funds previously appropriated under this head shall be available for audit purposes as identified in section 233 of the Compact of Free Association.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of the Interior, $47,519,000 of which not to exceed $10,000 may be for official reception and representation expenses.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $23,053,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $17,757,000.

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $1,800,000.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 8 aircraft, all of which shall be for replacement: *Provided,* That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the

approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further,* That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided,* That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further,* That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided,* That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: *Provided,* That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, pre-leasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands described in, and under the same terms and conditions set forth in section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190.

SEC. 108. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. 109. Notwithstanding any other provision of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 110. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 111. The Secretary of the Navy is authorized to transfer to the Guam Power Authority (GPA), pursuant to the payment provisions described in the conference report on the Continuing Appropriations Act, 1985 (House Report No. 98-1159), those Navy-owned electric power generation, transmission and distribution facilities, and equipment (excluding distribution facilities required by the military) on Guam as specified in the customer-supplier contract to be negotiated between the Navy and the GPA together with associated land interests. Transfer of such power generation, transmission and distribution facilities, and equipment shall not occur until the GPA assumes full responsibility for islandwide electrical power supply to military and civilian customers on Guam. GPA shall assume full responsibility when it meets all performance standards specified in the August, 1986 independent third party plan for takeover of the islandwide power responsibilities or other performance standards mutually agreed upon by GPA and Navy.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $135,510,000 of which $3,000,000 shall remain available until expended for competitive research grants, as authorized by section 5 of Public Law 95-307.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $76,469,000, to remain available until expended, as authorized by law: *Provided,* That a grant of $2,800,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495: *Provided further,* That notwithstanding any other provision of law, a grant of $6,400,000 shall be provided to the appropriate entity in the city of Kellogg, Idaho for construction of a gondola and shall be matched from other sources.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for liquidation of obligations made in the preceding fiscal years pursuant to 16 U.S.C. 556d for forest firefighting and emergency rehabilitation of National Forest System lands, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", $1,243,391,000, of which $296,758,000 for reforestation and timber stand improvement, cooperative law enforcement, firefighting, and maintenance of forest development roads and trails shall remain available for obligation until September 30, 1989.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $214,078,000, to remain available until expended, of which $27,643,000 is for construction and acquisition of buildings and other facilities; and $186,435,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided,* That funds becoming available in fiscal year 1988 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $49,076,000 to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided,* That, notwithstanding any other provision of law, the Secretary of Agriculture, as soon as practicable, shall—

(1) acquire the following described lands (containing approximately 2,000 acres) from the owner of such real property:

All that portion of sections 17, 18, 19, and 20 in township 25 north range 11 west Mt. Diablo Meridian Trinity County, California, described as follows:

The west half of the southwest quarter; the west half of the east half of the southwest quarter of section 17.

Lots 9, 10, 11, and 12 and the southeast quarter of section 18.

Lots 5, 6, 7, 8, 17, and 18 and the northeast quarter of section 19.

The west half of the northwest quarter; the west half of the northeast quarter of the northwest quarter; the southeast quarter of the northeast quarter of the northwest quarter; the southeast quarter of the northwest quarter; the southwest quarter of the northeast quarter and the south half of the northwest quarter of the northeast quarter of section 20.

All that portion of sections 13, 14, and 24 in township 25 north range 12 west Mount Diablo Meridian Trinity County, California, described as follows:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12; the west half of the northeast quarter; the east half of the west half; the northwest quarter of the northwest quarter; and the southwest quarter of the southwest quarter of section 13.

Lots 3, 4, 5, and 6; the west half of the northwest quarter of the northeast quarter; and the east half of the northeast quarter of the northeast quarter; the southeast quarter of the southeast quarter; and the southwest quarter of the northeast quarter; and the northeast quarter of the northwest quarter of section 14.

Lots 1, 2, 7, and 8 of section 24.

Tracts 44, 55, and 76;

(2) in consideration of such acquisition, reduce the aggregate outstanding loan balance, with respect to loans made to such owner by the Farmers Home Administration, by an amount equal to the fair market value (as determined by the Secretary) of such real property, plus the reasonable expenses incurred by such owner in executing such transfer of title, plus an amount equal to the reasonably expected liability of such owner for Federal, State, and local taxes incurred on account of such transfer of title, except that such reduction shall not exceed $1,250,000; and

(3) transfer such lands to the Forest Service for such sums as the Secretary determines to be appropriate, which lands shall be added to, and administered as part of, the Yolla-Bolly Middle Eel Wilderness.

The Secretary of Agriculture is directed to use funds in the inholding and composite land acquisition account to purchase the Torre Canyon Ranch, in the Los Padres National Forest, California, at a cost not to exceed fair market value.

TIMBER ROADS, PURCHASER ELECTION, FOREST SERVICE

(RESCISSION)

Of the funds currently available and unobligated in this account, $75,000,000 is hereby rescinded.

TIMBER SALVAGE SALES

For design, engineering and supervision of construction of roads, for salvage timber sales, and for sale preparation and supervision of harvesting of such timber, $37,000,000, to remain available until expended: *Provided*, That the appropriation shall be merged with and made a part of the designated fund authorized by section 14(h) of Public Law 94-588, October, 1976: *Provided further*, That moneys received from the timber salvage sales program in fiscal year 1988 shall be considered as money received for the purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, $966,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), $90,000 to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 186 passenger motor vehicles of which nine will be used primarily for law enforcement purposes and of which 179 shall be for replacement only, of which acquisition of 157 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 50 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System appropriation for the emergency rehabilitation of burned-over lands under its jurisdiction.

Appropriations and funds available to the Forest Service shall be available to comply with the requirements of section 313(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)).

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest: *Provided*, That not less than $61,502,000 shall be made available to the Forest Service for obligation in fiscal year 1988 from the Timber Salvage Sales Fund appropriation.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprograming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Subject to the enactment of authorizing legislation the boundary of the Cranberry Wilderness located within the Monongahela National Forest, West Virginia, is modified as depicted on a map entitled "Cranberry Wilderness Area Revised" dated October, 1987, on file in the Office of the Chief, Forest Service, United States Department of Agriculture, Washington, D.C.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

Notwithstanding section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)), not more than $50,007,000 of new appropriations shall be available for timber supply, protection and management, research, resource protection and construction on the Tongass National Forest in fiscal year 1988: *Provided*, That all of the funds available from the Tongass Timber Supply Fund in fiscal year 1988 pursuant to section 705(a) of Public Law 96-487 shall be deemed obligated as of October 1, 1987 and shall remain available until expended. This funding limitation shall not include those funds available to the Forest Service as Trust Funds, Permanent Funds (other than the Tongass Timber Supply Fund), or Purchaser Road Construction.

No funds shall be expended for the purpose of issuing a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls border-

ing the Lewis Fork Creek National Recreation Trail until both of the following conditions are met:

(1) A study is completed and submitted to the Congress by the Forest Service in consultation with the California Department of Parks and Recreation regarding the project's impact on the aesthetics of Corlieu Falls, together with a finding that the Lewis Fork Creek project will not substantially impact the flow at Corlieu Falls; and

(2) A study is completed and submitted to the Congress by the Forest Service concerning the project's impact on the Chukchansi Indian Tribe, together with a finding that there will be no substantial adverse impact on the tribe's adjacent sacred hot springs.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

For necessary expenses of, and associated with, Clean Coal Technology demonstrations pursuant to 42 U.S.C. 5901 et seq., $50,000,000 are appropriated for the fiscal year beginning October 1, 1987, and shall remain available until expended, and $525,000,000 are appropriated for the fiscal year beginning October 1, 1988, and shall remain available until expended.

No later than sixty days following enactment of this Act, the Secretary of Energy shall, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), issue a general request for proposals for emerging clean coal technologies which are capable of retrofitting or repowering existing facilities, for which the Secretary of Energy upon review may provide financial assistance awards. Proposals under this section shall be submitted to the Department of Energy no later than ninety days after issuance of the general request for proposals required herein, and the Secretary of Energy shall make any project selections no later than one hundred and sixty days after receipt of proposals: *Provided,* That projects selected are subject to all provisos contained under this head in Public Law 99-190: *Provided further,* That pre-award costs incurred by project sponsors after selection and before signing an agreement are allowable to the extent that they are related to (1) the preparation of material requested by the Department of Energy and identified as required for the negotiation; or (2) the preparation and submission of environmental data requested by the Department of Energy to complete National Environmental Policy Act requirements for the projects: *Provided further,* That pre-award costs are to be reimbursed only upon signing of the project agreement and only in the same ratio as the cost-sharing for the total project: *Provided further,* That reports on projects selected by the Secretary of Energy pursuant to authority granted under the heading "Clean coal technology" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, which are received by the Speaker of the House of Representatives and the President of the Senate prior to the end of the first session of the 100th Congress shall be deemed to have met the criteria in the third proviso of the fourth paragraph under the heading "Administrative provisions, Department of Energy" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, upon expiration of 30 calendar days from receipt of the report by the Speaker of the House of Representatives and the President of the Senate.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $326,975,000, to remain available until expended, of which $230,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), and of the amount appropriated under this head, $4,000,000 shall be available to construct Department of Energy Fossil Energy building B-26, and pursuant to section 111(b)(1)(B) of the Energy Reorganization Act of 1974, as amended, of the amount appropriated under this head, $5,500,000 shall be available for a grant for an energy center at the University of Oklahoma in Norman, Oklahoma, and $6,000,000 shall be available for a grant for an energy center at West Virginia University in Morgantown, West Virginia, without section 111(b)(2) of such Act being applicable, and $20,894,000 to be derived by transfer from amounts derived from fees for guarantees of obligations collected pursuant to section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5919), and deposited in the "Energy security reserve" established by Public Law 96-126: *Provided,* That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further,* That notwithstanding any other provision of law, funds appropriated under this head in Public Law 99-190 for demonstration of the Kilngas coal gasification process, which remain unobligated, shall be available for carrying out any fossil energy research and development activities.

Of the funds herein provided, $35,000,000 is for implementation of the June, 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided further,* That 25 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1988, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further,* That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $159,663,000, to remain available until expended: *Provided,* That sums in excess of $836,000,000 received during fiscal year 1988 as a result of the sale of products produced from Naval Petroleum Reserves Numbered 1 and 3 shall be deposited in the "SPR petroleum account", to remain available until expended, for the acquisition and transportation of petroleum and for other necessary expenses: *Provided further,* That section 7430(b) of title 10, United States Code, is amended by adding after paragraph (2) the following:

"(3) For purposes of paragraph (2), the term 'petroleum' does not include natural gas liquids,"

and section 7422(c)(1)(B)(ii) of such title is amended by inserting "(other than natural gas liquids)" after "petroleum".

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $366,297,000, to remain available until expended, of which $56,780,000, notwithstanding any other provision of law, shall be derived first from the excess amount for fiscal year 1988 determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502), and second, if necessary, from unexpended balances in the Department of Energy Deposit Fund Escrow account: *Provided,* That $200,000,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507): *Provided further,* That notwithstanding section 3003(d)(2) of Public Law 99-509 such sums shall be allocated to the eligible programs in the same amounts for each program as in fiscal year 1987, and of which $6,000,000 shall be available for a grant for an energy demonstration and research facility at Northwestern University as authorized by section 202 of Public Law 99-412 (42 U.S.C. 8281 note): *Provided further,* That $4,000,000 of the amount provided under this heading shall be available for continuing a research and development initiative with the National Laboratories, industry, universities, or others for new technologies up to proof-of-concept testing to increase significantly the energy efficiency of processes that produce steel: *Provided further,* That obligation of funds for these activities shall be contingent on an agreement to provide cash or in-kind contributions to the initiative or to other collaborative research and development activities related to the purpose of the initiative equal to 30 percent of the amount of Federal Government obligations: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not acceptable as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $21,565,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,172,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of

the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $164,162,000, to remain available until expended.

SPR PETROLEUM ACCOUNT

For the acquisition and transportation of petroleum and for other necessary expenses under section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), $438,744,000, to remain available until expended: *Provided*, That outlays in fiscal year 1988 resulting from the use of these funds may not exceed $256,478,000: *Provided further*, That notwithstanding 42 U.S.C. 6240(d) the United States' share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $61,398,000.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles, hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further*, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXI and sections 208 and 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $943,297,000 together with payments received during the fiscal year pursuant to 42 U.S.C. 300cc-2 for services furnished by the Indian Health Service: *Provided*, That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86-121 (the Indian Sanitation Facilities Act): *Provided further*, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1989; and $15,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund and contract medical care: *Provided further*, That of the funds provided, $2,000,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed $25,000 per year of obligated service in return for full-time clinical service in the Indian Health Service. Each individual participating in this program must sign and submit to the Secretary a written contract to accept repayment of educational loans and to serve for the applicable period of service in the Indian Health Service: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1989 for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further*, That of the funds provided, $2,500,000 shall remain available until expended, for the establishment of an Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1989.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $62,511,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided*, That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further*, That non-Indian patients may be extended health care at all Indian Health Service facilities, if such care can be extended without impairing the ability of the Indian Health Service to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act: *Provided further*, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further*, That with the exception of service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further*, That the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is obligated under section 338B of the Public Health Service Act and assigned and providing direct health services or serving the officer's obligation as a specialist: *Provided further*, That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Serv-

ice by the elimination of temporary employees by reduction in force, hiring freeze or any other means without the review and approval of the Committees on Appropriations: *Provided further,* That funds provided in this Act may be used to reimburse the travel costs of spouses who accompany prospective Indian Health Service medical professional employees to the site of employment as part of the recruitment process: *Provided further,* That section 103(c) of the Indian Self-Determination Act (88 Stat. 2206) is amended by adding the following sentence at the end thereof: "For purposes of section 224 of the Public Health Service Act of July 1, 1944 (42 U.S.C. 233(a)), as amended by section 4 of the Act of December 31, 1970 (84 Stat. 1870), with respect to claims for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, a tribal organization or Indian contractor carrying out a contract, grant agreement, or cooperative agreement under sections 103 or 104(b) of this Act is deemed to be part of the Public Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees (including those acting on behalf of the organization or contractor as provided in section 2671 of title 28) are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or agreement.".

The paragraph under the heading "Administrative Provisions, Indian Health Service" that is under the superior headings "Health Resources and Services Administration" and "Department of Health and Human Services" in title II of the Department of the Interior and Related Agencies Appropriations Act, 1987, which is contained in section 101(h) of Public Law 99-500 (100 Stat. 1783-277) and in section 101(h) of Public Law 99-591 (100 Stat. 3341-277) is amended by striking out all after "any political subdivision of the State," in the seventh proviso and inserting in lieu thereof "any corporation (including the University of Alaska), any partnership, any business organization, any non-profit organization, or any person, and may receive or pay money to the extent that such receipt or payment is necessary to equalize the exchange: *Provided,* That available funds previously appropriated for this project may be used for this purpose and that any money received by the Secretary shall be credited to the appropriation for Indian Health Facilities and be used to offset the costs of constructing or lease-purchase of the hospital facilities in Alaska described in this section: *Provided further,* That the Indian Health Service prepares and submits a report prior to June, 1988, which sets forth the legal authority necessary to enter into a lease-purchase contract, identifies the extent of tribal interest in the construction of health facilities for lease-purchase to the Indian Health Service, compares the advantages versus the disdvantages to the Government of lease-purchase to direct Federal construction of the Anchorage facility, including costs of construction, and discusses the efforts expended by the Indian Health Service in protecting the Federal investment to date".

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act, $66,326,000, of which $49,170,000 shall be for part A and $14,707,000 shall be for parts B and C: *Provided,* That the amounts available pursuant to section 423 of the Act shall remain available for obligation until September 30, 1989.

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, $25,270,000, to remain available until expended, for operating expenses of the Commission: *Provided,* That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further,* That no relocatee will be provided with more than one new or replacement home: *Provided further,* That the Commission shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $201,432,000, including such funds as may be necessary to support American overseas research centers: *Provided,* That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $8,150,000, to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $19,254,000, to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses to design and construct a base camp at the Fred L. Whipple Observatory, $1,315,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, the Institution is authorized to transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $150,000 for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; purchase of one passenger motor vehicle for replacement only; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $37,352,000, of which not to exceed $2,420,000 for the special exhibition program shall remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $4,028,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $139,311,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act: *Provided,* That, 20 U.S.C. 974(b) is amended as follows: strike "$650,000,000" and insert "$1,200,000,000": *Provided further,* That, 20 U.S.C. 974(c) is amended as follows: strike "$75,000,000" and insert "$125,000,000".

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,420,000, to remain available until September 30, 1989, to the National Endowment for the Arts, of which $19,420,000 shall be available for purposes of section 5(l): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $111,935,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,500,000, to remain available until September 30, 1989, of which $16,500,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $4,500,000: *Provided*, That Public Law 99-190 (99 Stat. 1261) is amended under this heading as follows:

(1) in the first paragraph, strike the words "National Endowment for the Humanities" and insert in lieu thereof "Commission of Fine Arts", and

(2) Delete the third paragraph and insert in lieu thereof: "The Chairman of the Commission of Fine Arts shall establish an application process and shall, along with the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities determine the eligibility of applicant organizations in addition to those herein named.".

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $21,944,000, including $100,000 as authorized by 20 U.S.C. 965(b): *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further*, That the Museum Services Board shall not meet more than three times during fiscal year 1988.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $443,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,719,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $2,948,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $28,000 to remain available until September 30, 1989.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,516,000, for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $3,000,000, to remain available until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, $2,171,000: *Provided*, That hereafter persons other than members of the United States Holocaust Memorial Council may be designated as members of committees associated with the United States Holocaust Memorial Council subject to appointment by the Chairman of the Council: *Provided further*, That any persons so designated shall serve without cost to the Federal Government: *Provided further*, That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further*, That hereafter the Chairman of the Council may waive any Council bylaw when the Chairman determines such waiver will be in the best interest of the Council: *Provided further*, That hereafter immediately after taking such action the Chairman shall send written notice to every voting member of the Council and such waiver shall become final if 30 days after the Chairman has sent such notice, a majority of Council members do not disagree in writing with the action taken: *Provided further*, That $35,000 of the amount appropriated is to go to the Holocaust Council's Committee to Remember the Children for a demonstration project to be undertaken with the Capital Children's Museum to determine the feasibility of establishing a children's museum in the principal Holocaust Memorial Museum.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided*, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 307. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the National Forest System released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1)(A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for

or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: *Provided*, That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further*, That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further*, That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as the Secretary deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and x-ray diffraction analysis; land satellites; or any other methods the Secretary deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by the Secretary to be qualified to engage in such activities whenever the Secretary has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: *Provided further*, That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of any lands designated by Congress as wilderness study areas, that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness study area or other nonsurface disturbing methods.

SEC. 308. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 309. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 310. Employment funded by 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.

SEC. 311. Notwithstanding any other provisions of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 312. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 313. None of the funds made available to the Department of the Interior or the Forest Service during fiscal year 1988 by this or any other Act may be used to implement the proposed jurisdictional interchange program until enactment of legislation which authorizes the jurisdictional interchange.

SEC. 314. The Forest Service and Bureau of Land Management are to continue to complete as expeditiously as possible development of their respective Forest Land and Resource Management Plans to meet all applicable statutory requirements. Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service, and the Bureau of Land Management under separate authority, may continue the management of lands within their jurisdiction under existing land and resource management plans pending the completion of new plans. Nothing shall limit judicial review of particular activities on these lands: *Provided, however*, That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated, or in the case of the Bureau of Land Management, solely on the basis that the plan does not incorporate information available subsequent to the completion of the existing plan: *Provided further*, That any and all particular activities to be carried out under existing plans may nevertheless be challenged.

SEC. 315. The final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration of the Public Health Service of the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service, shall not take effect before September 16, 1988, and no action may be taken before such day to implement or administer such rule or to prescribe any other rule or regulation that has a similar effect. The grace period provided in section 36.33 of such published rule shall not terminate before March 16, 1989, and any other rule or regulation that has a similar effect shall provide for such a grace period which shall not expire before March 16, 1989.

SEC. 316. (a) Except as provided in subsection (b), the Secretary of Agriculture shall not transfer certain National Forest System land in the Black Hills National Forest, South Dakota, described as follows:

TRACT 0043 (Hine)—

Beginning at the north quarter corner section 16, township 1, north, range 6 east; Black Hills Meridian;

thence westerly along the north line of the northwest quarter, section 16, to the east east west ⅛₅₆ corner;

thence southerly along the west line of the east half east half northeast quarter northwest quarter 393.00 feet;

thence due west to a point that is due south of the intersection of the north line of the northwest quarter, section 16, and line 20-21 of the Big Bend Placer (MS 1442);

thence north to the intersection of the north line of the northwest quarter, section 16, and line 20-21 of the Big Bend Placer;

thence northeasterly along line 20-21 to corner 20;

thence northwesterly along line 19-20 to a point due north of the intersection of north line of the northwest quarter, section 16, and line 20-21, MS 1442;

thence north to a point which is due west of a point that is 850.00 feet northerly along the west line of the southeast quarter, section 9;

thence east to the west line of the southeast quarter;

thence southerly along the west line of the southeast quarter 850.00 feet to the north quarter corner section 16, point of beginning.

(b) The Secretary may transfer such portion of the Hine Tract described in subsection (a) necessary to remove the encroachment of the Hine cabin which is located on the boundary of the Hine Tract.

SEC. 317. Notwithstanding any other provision of law, the Secretary of Energy is directed to notify the Appropriations Committees of the House and the Senate, the Energy and Natural Resources Committee of the Senate and the appropriate authorizing committees of the House of the Secretary's intent to enter into a binding contract for the sale of the Great Plains Coal Gasification Plant in Beulah, North Dakota: *Provided*, That such notification shall be received by the above-referenced committees at least thirty (30) calendar days before the agreement is effective: *Provided further*, That such notification shall include a de-

tailed description as to the terms and conditions of the sale, including, but not limited to, the purchase price, the name of the prospective purchaser, the basis for agreeing to the sale, and a statement of commitment signed by an authorized individual of the purchaser for continued long-term operation of the facility at a rate and for a period determined appropriate and reasonable by the Secretary.

SEC. 318. Notwithstanding any other provision of law, 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".

SEC. 319. (a) From funds appropriated under this Act such sums as are necessary shall be made available to pay forest firefighters premium pay under the provisions of subchapter V of chapter 55 of title 5, United States Code (notwithstanding the limitations of section 5547 of such title), for all premium pay—

(1) that would have been paid to such forest firefighter employees, but for the provisions of section 5547 of such title, for all pay periods (and parts thereof) occurring during the period beginning on January 1, 1987, through September 30, 1987; and

(2) earned by such forest firefighter employees in the fiscal year ending on September 30, 1988.

(b) Notwithstanding the provisions of subsection (a), no forest firefighter employee may be paid premium pay to the extent that the aggregate rate of pay of such employee for the aggregate of all pay periods in any calendar year exceeds the maximum rate for GS-15 as provided under the General Schedule pursuant to subchapter III of chapter 53 of title 5, United States Code.

(c) For purposes of this section, the term "forest firefighter" means any employee of the Department of Agriculture or the Department of the Interior who is assigned to, or in support of, work on forest wildfire emergencies.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1988".

(h) Such amounts as may be necessary for programs, projects or activities provided for in the Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies, for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $70,872,000 together with not to exceed $44,380,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, $3,658,651,000 plus reimbursements, to be available for obligation for the period July 1, 1988, through June 30, 1989, of which $59,713,000 shall be for carrying out section 401, $65,572,000 shall be for carrying out section 402, $9,966,000 shall be for carrying out section 441, $1,915,000 shall be for the National Commission for Employment Policy, $3,830,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $7,659,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act: *Provided*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

For necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers as authorized by the Job Training Partnership Act, $89,038,000, to be available for obligation for the period July 1, 1988 through June 30, 1991.

For activities authorized by sections 236, 237, and 238 of the Trade Act of 1974, as amended, including necessary related administrative expenses, $47,870,000.

For activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act, $9,574,000, of which $1,915,000 shall be for carrying out section 738 of the Act.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $258,383,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $72,877,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances, as provided by law (part I, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended), $141,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided*, That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-49l-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii), 212(a)(14), and 216(g)(1)(2)(3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); and necessary administrative expenses to carry out the Targeted Jobs Tax Credit program under section 51 of the Internal Revenue Code of 1986, $22,403,000, together with not to exceed $2,418,405,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1988, and of which $21,733,000 together with not to exceed $701,296,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1988, through June 30, 1989, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose and of which $175,076,000 (including not to exceed $4,404,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980) shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1988.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1989; $30,000,000.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $76,776,000, of which $12,063,000 for a pension plan data base shall remain available until September 30, 1989.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1988, for such Corporation: *Provided*, That not to exceed $38,329,000 shall be available for administrative expenses of the Corporation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $207,709,000, of which not to exceed $7,659,000 shall be available for obligation through September 30, 1989, for acquisition of computer equipment and software for the Federal Employees' Compensation Program's ADP system, together with $467,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $174,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1988.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $649,169,000, of which $594,522,000 shall be available until September 30, 1989, for payment of all benefits as authorized by section 9501(d) (1), (2), and (7) of the Internal Revenue Code of 1954, as amended, and of which $28,217,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $25,924,000 for transfer to Departmental Management, Salaries and Expenses, and $506,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition, there are hereby appropriated such amounts as may be necessary to repay advances from the Treasury that are not needed to make disbursements during the current fiscal year, as authorized by section 9501(d)(4) of that Act: *Provided further*, That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $235,474,000, including not to exceed $40,524,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for ten or more violations: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of ten or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good-faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further*, That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: *Provided further*, That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe: *Provided further*, That none of the funds appropriated under this paragraph may be obligated or expended for the inspection, investigation, or enforcement of any activity occurring on the Outer Continental Shelf which exceeds the authority granted to the Occupational Safety and Health Administration by any provision of the Outer Continental Shelf Lands Act, or the Outer Continental Shelf Lands Act Amendments of 1978.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $160,193,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed sixty passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contribu-

tions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $176,481,000, of which $8,793,000 shall be for expenses of revising the Consumer Price Index, together with not to exceed $41,569,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided*, That $7,366,000 shall remain available until September 30, 1989.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including $2,434,000 for the President's Committee on Employment of the Handicapped, $114,929,000, together with not to exceed $274,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $139,614,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-08 and 2021-26.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $37,051,000, together with not to exceed $6,201,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. None of the funds appropriated in this Act shall be obligated or expended for the purpose of closing any Job Corps Center operating under part B of title IV of the Job Training Partnership Act prior to January 1, 1989.

SEC. 104. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps which was not under such a contract as of September 1, 1984.

SEC. 105. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1988".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles III, VI, VII, VIII, X, XVI, and XXIII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, and the Stewart B. McKinney Homeless Assistance Act, $1,551,478,000, of which not to exceed $718,000 to remain available until expended, shall be available for renovating the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, and of which $96,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act, and of which $6,702,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of non-acute care intermediate and long term care facilities for AIDS patients: *Provided*, That grants made under the Excellence in Minority Health Education and Care Act shall be awarded competitively and, notwithstanding section 788A, any university which awards a graduate degree in the health professions and which has a majority enrollment of minority students shall be eligible to apply and compete for a grant: *Provided further*, That the total principal amount of Federal loan insurance available under section 728 of the Public Health Service Act during fiscal year 1988 shall be granted by the Secretary of Health and Human Services without regard to any apportionment or other similar limitation: *Provided further*, That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advances to this appropriation.

For carrying out subpart 2 of part A of title XIX of the Public Health Service Act, $4,787,000 to be available June 1, 1988.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $22,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, XVII, and XIX and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $771,772,000, of which $1,915,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided*, That training shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further*, That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That collections from user fees, including collections from training and reimbursements and advances for the full cost of proficiency testing of private clinical laboratories, may be credited to this appropriation: *Provided further*, That the General Services Administration is directed to construct under their lease purchase authority, a 100,000 net sq. ft. office building at the CDC Clifton Road site in Atlanta, Georgia and the laboratory facility in Chamblee, Georgia, designed with the funds which Congress provided to the Centers for Disease Control in the fiscal year 1987 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriation. CDC is to reimburse GSA for the annual lease payment: *Provided further*, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the PHS Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality shall be treated as non-Federal employees for reporting purposes only. In addition, the full-time equivalents for organizations within the Department of Health and Human Services shall not be reduced to accommodate implementation of this provision: *Provided further*, That the Director shall cause to be distributed without necessary clearance of the content by any official, organization or office, an AIDS mailer to every American household by June 30, 1988, as approved and funded by the Congress in Public Law 100-71.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,469,327,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301, title IV, and section 1105 of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $965,536,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental diseases, $126,297,000.

NATIONAL INSTITUTE OF DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $534,733,000.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, $534,692,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $638,800,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $632,676,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $396,811,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $224,947,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV of the Public Health Service Act with respect to environmental health sciences, $215,666,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $194,746,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $147,679,000.

RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $368,153,000, of which $23,935,000 shall remain available until expended to provide for the repair, renovation, modernization, and expansion of existing facilities and purchase of associated equipment, and to make grants and enter into contracts for such purposes: *Provided,* That none of these funds, with the exception of funds for the Minority Biomedical Research Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $23,380,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $15,651,000, of which $1,852,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $67,910,000.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $61,819,000, including purchase of not to exceed six passenger motor vehicles for replacement only.

BUILDINGS AND FACILITIES

For construction of, and acquisition of sites and equipment for, facilities of or used by the National Institutes of Health, $47,870,000, to remain available until expended.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $1,373,727,000 of which $4,787,000 shall be available, on a pro rata basis, for grants to the States for State comprehensive mental health services plans pursuant to title V of Public Law 99-660 (100 Stat. 3794-3797), and of which $191,000 for renovation of government owned or leased intramural research facilities shall remain available until expended.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

(INCLUDING TRANSFER OF FUNDS)

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, $62,793,000, together with any unobligated balances from "Saint Elizabeths Hospital, Construction and Renovation" (except those balances determined by the Secretary of Health and Human Services to be necessary to carry out existing Federal renovation contracts), all of which shall be available in fiscal year 1988 for payments to the District of Columbia as authorized by sections 2, 4, and 9 of the Act; and in addition, $2,609,000 which shall be available through September 30, 1989 for Federal activities authorized by sections 6 and 9 of the Act: *Provided,* That funds appropriated under this heading may be used for multi-year contracts with the District of Columbia for maintenance of Saint Elizabeths Hospital: *Provided further,* That any amounts determined by the Secretary of Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury.

In fiscal year 1988 the maximum amount available to Saint Elizabeths Hospital from Federal sources shall not exceed the total of the following amounts: the appropriations made under this heading, amounts billed to Federal agencies and entities by the District of Columbia for services provided at Saint Elizabeths Hospital, and amounts authorized by titles XVIII and XIX of the Social Security Act. This maximum amount shall not include Federal funds appropriated to the District of Columbia under "Federal Payment to the District of Columbia" and payments made pursuant to section 9(c) of Public Law 98-621. Amounts chargeable to and available from Federal sources for inpatient and outpatient services provided through Saint Elizabeths Hospital as authorized by 24 U.S.C. 191, 196, 211, 212, 222, 253, and 324; 31 U.S.C. 1535; and 42 U.S.C. 249 and 251 shall not exceed the estimated total cost of such services as computed using only the proportionate amount of the direct Federal subsidy appropriated under this heading.

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

PUBLIC HEALTH SERVICE MANAGEMENT

For the expenses necessary for the Office of the Assistant Secretary for Health and for carrying out titles III, XVII, and XX of the Public Health Service Act, $106,737,000, together with not to exceed $1,005,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein and $1,915,000 to be transferred and expended for patient outcome assessment research as authorized by section 9316 of Public Law 99-509, of which $1,245,000 will come from the Federal Hospital Insurance Trust Fund and $670,000 will come from the Federal Supplementary Medical Insurance Trust Fund, and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided,* That in addition to amounts provided herein, up to $15,318,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Medical Expenditure Survey and $5,827,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Health and Nutrition Examination Survey.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), such amounts as may be required during the current fiscal year.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $22,946,000,000, to remain available until expended.

For making, after May 31, 1988, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1988 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

Payment under title XIX may be made for any quarter beginning after June 30, 1987, and before October 1, 1988, with respect to any State plan or plan amendment in effect during any such quarter, if submitted in, or prior to such quarter and approved in that or any such subsequent quarter.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1989, $8,000,000,000, to remain available until expended.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, $25,893,000,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, $98,211,000, together with not to exceed $1,373,585,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein: *Provided*, That $105,314,000 of said trust funds shall be expended only to the extent necessary to process workloads not anticipated in the budget estimates, including the cost of administration of catastrophic health insurance if enacted into law, and to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That all funds derived in accordance with 31 U.S.C 9701, are to be credited to this appropriation.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 217(g), 228(g), and 1131(b)(2) of the Social Security Act and section 152 of Public Law 98-21, $105,298,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $663,452,000, to remain available until expended: *Provided*, That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31, of the current fiscal year benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1989, $250,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the social security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $9,535,384,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1989, $3,000,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $3,524,114,000, may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further*, That $47,870,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That not to exceed $53,040,000 for automatic data processing and telecommunications activities shall remain available until expended: *Provided further*, That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States.

FAMILY SUPPORT ADMINISTRATION

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C., ch. 9), $8,644,385,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C., ch. 9) for the first quarter of fiscal year 1989, $2,500,000,000, to remain available until expended.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,531,840,000.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $346,933,000.

WORK INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, $92,551,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes.

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act, section 408 of Public Law 99-425 and the Stewart B. McKinney Homeless Assistance Act, $382,290,000 of which $18,909,000 shall be for carrying out section 681(a)(2)(A), $3,925,000 shall be for carrying out section 681(a)(2)(D), $2,968,000 shall be for carrying out section 681(a)(2)(E), $6,319,000 shall be for carrying out section 681(a)(2)(F), $239,000 shall be for carrying out section 681(a)(3), $2,872,000 shall be for carrying out section 408 of Public Law 99-425 and $2,394,000 shall be for carrying out section 681A with respect to the community food and nutrition program.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C., ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, the Stewart B. McKinney Homeless Assistance Act, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, $79,464,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,700,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the Child Abuse Prevention and Treatment Act, section 404 of Public Law 98-473, the Family Violence Prevention and Services Act (title III of Public Law 98-457), the Native Americans Programs Act, title II of Public Law 95-266 (adoption opportunities), title II of the Children's Justice and Assistance Act of 1986, chapter 8-D of title VI of the Omnibus Budget Reconciliation Act of 1981 (pertaining to grants to States for planning and development of dependent care programs), the Head Start Act, the Child Development As-

sociate Scholarship Assistance Act of 1985, and part B of title IV and section 1110 of the Social Security Act, $2,455,532,000.

FAMILY SOCIAL SERVICES

For carrying out part E of title IV of the Social Security Act, $811,178,000.

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $67,840,000, together with not to exceed $6,702,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein, of which $4,308,000 shall be for construction and fixed equipment for the Mary Babb Randolph Center in West Virginia.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, $35,769,000, together with not to exceed $38,296,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $16,343,000, together with not to exceed $3,830,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $4,873,000.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 202. None of the funds made available by this Act for the National Institutes of Health may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 203. Appropriations in this Act for the Health Resources and Services Administration, the National Institutes of Health, the Centers for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, the Office of the Assistant Secretary for Health, the Health Care Financing Administration, and Departmental Management shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand four hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18; not to exceed $9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

SEC. 204. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 206. Funds appropriated in this title for the Social Security Administration shall be available for not to exceed $10,000 for official reception and representation expenses when specifically approved by the Commissioner of Social Security.

SEC. 207. Funds appropriated in this title for the Health Care Financing Administration shall be available for not to exceed $2,000 for official reception and representation expenses when specifically approved by the Administrator of the Health Care Financing Administration.

SEC. 208. No funds appropriated for the fiscal year ending September 30, 1988, by this or any other Act, may be used to pay basic pay, special pays, basic allowances for subsistence and basic allowances for quarters of the commissioned corps of the Public Health Service described in section 204 of title 42, United States Code, at a level that exceeds 110 percent of the Executive Level I annual rate of basic pay: *Provided*, That amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts "Health Resources and Services", National Institutes of Health "Office of the Director", "Disease Control, Research, and Training", and "Federal Subsidy for Saint Elizabeths Hospital": *Provided further*, That none of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health.

SEC. 209. None of the funds appropriated in this title shall be used to transfer the general administration of programs authorized under the Native American Programs Act from the Department of Health and Human Services to the Department of the Interior.

SEC. 210. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 211. The Secretary shall make available through assignment not more than 50 employees of the Public Health Service, who shall be exempt from all FTE limitations in the Department, to assist in child survival activities through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization. In addition, commissioned officers assigned under this section shall be exempt from all limitations on the number and grade of officers in the Public Health Service Commissioned Corps.

SEC. 212. Funds appropriated by this Act may be used to pay physicians' comparability allowances, as authorized under 5 U.S.C. 5948.

SEC. 213. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 214. The Secretary of Health and Human Services shall:

(1) Issue a report to Congress within 90 days of the close of fiscal year 1988, of violations occurring during such year, of Department of Health and Human Services travel policy.[14]

(2) Require that personnel found by the report to be in violation of Department travel policy, shall reimburse the Department for funds spent in violation of Department policy.

SEC. 215. Section 465(B) of 42 U.S.C. 286 is amended by inserting between (5) and (6) an additional charge to the Secretary to "publicize the availability of the above products and services of the National Library of Medicine".

SEC. 216. Funds available in this title for activities related to acquired immune deficiency syndrome (AIDS) may be transferred between appropriation accounts upon the approval by the House and Senate Committees on Appropriations of a transfer request

[14]Copy read "travel policy; and".

submitted by the Secretary of Health and Human Services.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1988".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out chapter 1 of the Education Consolidation and Improvement Act of 1981, as amended, $4,327,927,000, of which $7,181,000 shall be used for purposes of section 555(d) of said Act to provide technical assistance and evaluate programs, and the remaining $4,320,746,000 shall become available on July 1, 1988, and remain available until September 30, 1989: *Provided,* That of these remaining funds, no funds shall be used for purposes of section 554(a)(1)(B), $269,029,000 shall be available for purposes of section 554(a)(2)(A), $151,269,000 shall be available for purposes of section 554(a)(2)(B), $32,552,000 shall be available for purposes of section 554(a)(2)(C) and $38,296,000 shall be available for purposes of section 554(b)(1)(D).

For carrying out section 418A of the Higher Education Act, $8,616,000.

IMPACT AID

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), $685,498,000, of which $15,318,000 shall be for entitlements under section 2 of said Act and $670,180,000 shall be for entitlements under section 3 of said Act of which $536,144,000 shall be for entitlements under section 3(a) of said Act: *Provided,* That payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which 20 per centum or more of the total average daily attendance is made up of children determined eligible under section 3(b) shall be at 60 per centum of entitlement and payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which less than 20 per centum of the total average daily attendance is made up of children determined eligible under section 3(b) shall be ratably reduced from 100 per centum of entitlement: *Provided further,* That payments with respect to entitlements under section 3(a) to any local educational agency described in section 3(d)(1)(A) of said Act shall be at 100 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 15 per centum of entitlement, so long as the fiscal year 1988 per pupil payment does not exceed 105 per centum of the fiscal year 1987 per pupil payment: *Provided further,* That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to at least 15 per centum but less than 20 per centum of such agency's total average daily attendance shall be at 75 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 11.25 per centum of entitlement and the fiscal year 1988 local contribution rate for such agency shall not exceed 105 per centum of such agency's fiscal year 1987 local contribution rate: *Provided further,* That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to less than 15 per centum of such agency's total average daily attendance shall be ratably reduced from 100 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) of said Act shall be ratably reduced from 15 per centum of entitlement: *Provided further,* That the provisions of section 5(c) of said Act shall not apply to funds provided herein: *Provided further,* That payments with respect to entitlements under section 3(a) for any local educational agency that is described in section 3(d)(1)(A) and is coterminous with a military installation are not subject to limitations on increases in per pupil payments unless such agency's State aid payment is reduced as a result of its section 3 payment: *Provided further,* That the Secretary shall consider as timely filed requests for assistance filed after the applicable deadline and related to applications for assistance submitted under section 7 of said Act or section 16 of the Act of September 23, 1950, stemming from FEMA Disaster Number 753DR as declared on November 7, 1985: *Provided further,* That any payment made to a local educational agency for fiscal years prior to 1986 that is attributable to an incorrect determination under section 2(a)(1)(C) of such Act shall be deemed to have been made in accordance with such section, and any payment made to a local educational agency under section 3, for fiscal years prior to 1987, on behalf of children claimed by such agency for any such fiscal year who resided on or whose parents were employed on property that was housing assisted under section 8 of the United States Housing Act of 1937, as amended, shall stand, and such payments withheld or recovered shall be made or restored.

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), $22,978,000 which shall remain available until expended, shall be for providing school facilities as authorized by said Act, of which $8,617,000 shall be for awards under section 10 of said Act, $10,053,000 shall be for awards under sections 14(a) and 14(b) of said Act, and $4,308,000 shall be for awards under sections 5, 9 and 14(c) of said Act: *Provided further,* That funds appropriated under the heading "School Assistance in Federally Affected Areas" in Public Law 98-8 that are available for obligation shall be available until expended for the purposes of sections 14(a) and 14(b).

SPECIAL PROGRAMS

For carrying out the consolidated programs and projects authorized under chapter 2 of the Education Consolidation and Improvement Act of 1981, as amended, $508,439,000, of which $29,739,000 shall be for programs and projects authorized under subchapter D of said Act, including $10,244,000 for programs and projects authorized under subsection 583(a)(1) of said Act; $4,308,000 shall be used for awards, which, except for educational television programming, are not to exceed a cumulative amount of $957,000 to any recipient for national impact demonstration or research projects; $7,659,000 for activities authorized under subsection 583(b)(1) of said Act; $3,315,000 for programs authorized under subsection 583(b)(2) of said Act; and $3,830,000 for activities authorized under subsection 583(b)(4) of said Act; and $383,000 for national school volunteer programs: *Provided,* That $478,700,000 to carry out the State block grant program authorized under chapter 2 of said Act shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989.

For grants to State educational agencies and desegregation assistance centers authorized under section 403 of the Civil Rights Act of 1964, $23,456,000.

For carrying out activities authorized under title IX, part C of the Elementary and Secondary Education Act, $3,351,000.

For carrying out activities authorized under section 1524 of the Education Amendments of 1978, $4,787,000.

For carrying out activities authorized under section 1525 of the Education Amendments of 1978, $1,915,000.

For carrying out activities authorized under Public Law 92-506, as amended, $2,394,000: *Provided,* That said sum shall become available on July 1, 1988, and shall remain available until September 30, 1989.

For carrying out activities authorized under the Drug-Free Schools and Communities Act of 1986, $229,776,000, of which $191,480,000 for grants to States and outlying areas shall be available beginning July 1, 1988, and shall remain available until September 30, 1989: *Provided,* That State educational agencies allot fiscal year 1988 funds to local and intermediate educational agencies and consortia under section 4124(a) of the Act on the basis of their relative enrollments in public and private nonprofit schools.

For carrying out the provisions of title VII of the Education for Economic Security Act, relating to magnet schools assistance, $71,805,000: *Provided,* That not more than $4,000,000 in the fiscal year may be paid to any single eligible local educational agency.

For carrying out the provisions of title II of the Education for Economic Security Act, $119,675,000 of which $108,904,000, for grants to States and outlying areas under section 204 shall become available on July 1, 1988, and shall remain available until September 30, 1989.

For carrying out the provisions of subpart 2 of part C of title V of the Higher Education Act, $8,222,000, to become available July 1, 1988, and to remain available until September 30, 1989.

For carrying out the provisions of subpart 2 of part D of title V of the Higher Education Act, $1,915,000.

For carrying out the provisions of subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act, $4,787,000 to become available July 1, 1988, and remain available through September 30, 1989.

For carrying out activities authorized under the Follow Through Act, $7,133,000.

For carrying out activities authorized under section 137(a) of this joint resolution relating to dropout prevention, $23,935,000.

For carrying out activities authorized under section 137(b) of this joint resolution relating to workplace literacy, $9,574,000.

For carrying out activities authorized under section 137(c) of this joint resolution relating to Star Schools, $19,148,000: *Provided,* That grants under the Star Schools program shall be awarded through a competitive grant process.

BILINGUAL EDUCATION

For carrying out, to the extent not otherwise provided, title VII of the Elementary and Secondary Education Act, Refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act, part B of title III of the Refugee Act of 1980, and title VI of the Education Amendments of 1984, $190,504,000, of which $101,198,000 shall be for part A, $9,928,000 shall be for part B, and $35,447,000 shall be for part C of title VII of the Elementary

and Secondary Education Act and $28,722,000 shall be for the Emergency Immigrant Education Program authorized by title VI of the Education Amendments of 1984. Of the funds provided under this head in fiscal year 1987 in section 101(i) of Public Laws 99-500 and 99-591, for carrying out title VII of the Elementary and Secondary Education Act, which are unobligated, $1,247,000 are reappropriated to carry out title VI of the Education Amendments of 1984 to be used to fund the amended application from the State of Texas for the Emergency Immigrant Education Program: *Provided,* That the reappropriated funds shall be available until September 30, 1988.

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, $1,869,019,000, of which $1,431,737,000 for section 611, $201,054,000 for section 619, and $67,018,000 for section 685 shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989: *Provided,* That notwithstanding section 621(e) of the Education of the Handicapped Act, up to $479,000 may be used for section 621(d) of that Act: *Provided further,* That the amount appropriated for section 685 of the Education of the Handicapped Act in Public Laws 99-500 and 99-591, section 101(i), for fiscal year 1987 shall remain available for obligation by the States until September 30, 1989.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973 and the Helen Keller National Center Act, as amended, $1,590,400,000, of which $1,379,500,000 shall be for allotments under sections 100(b)(1) and 110(b)(3) of the Rehabilitation Act, $16,590,000 shall be for special demonstration programs under sections 311 (a), (b), and (c), and $4,800,000 shall be for the Helen Keller National Center: *Provided,* That $500,000 shall be available on a competitive basis for research and training for hearing loss assessments for native Hawaiian children under section 204 of such Act until September 30, 1989: *Provided further,* That the amount appropriated for title VI, part C of the Rehabilitation Act in Public Laws 99-500 and 99-591, section 101(i), for fiscal year 1987 shall remain available for obligation by the States until September 30, 1989.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational Education Act, and the Adult Education Act and the Stewart B. McKinney Homeless Assistance Act, $1,005,557,000 which shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989: *Provided,* That $25,658,000 shall be available for title IV of the Carl D. Perkins Vocational Education Act, of which $7,276,000 shall be for part A, including $5,744,000 for section 404, $14,792,000 shall be for part B, including $14,361,000 for section 411 and $3,590,000 shall be for part C of said title: *Provided further,* That $7,851,000 shall be available for State councils under section 112 of the Carl D. Perkins Vocational Education Act: *Provided further,* That $6,845,000 shall be made available to carry out title III-A and $32,791,000 shall be made available for title III-B of said Vocational Education Act: *Provided further,* That $3,734,000 shall be available for part E of title IV of the Carl D. Perkins Vocational Education Act: *Provided further,* That section 202 of the Carl D. Perkins Vocational Education Act is amended—

(1) by inserting (a) after the section designation, and

(2) by adding at the end thereof the following new subsection:

"(b) Funds provided for fiscal year 1988 and described in clause (4) of subsection (a) shall also be available for single pregnant women.".

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C and E of title IV of the Higher Education Act, as amended, $5,544,792,000, which shall remain available until September 30, 1989: *Provided,* That the maximum Pell grant that a student may receive in the 1988-1989 award year shall be $2,200.

GUARANTEED STUDENT LOANS

For necessary expenses under title IV, part B of the Higher Education Act, $2,565,000,000, to remain available until expended.

HIGHER EDUCATION

For carrying out title III of the Higher Education Act of 1965, as amended, $152,370,000, of which up to $19,148,000 for section 332 of part C of title III of said Act shall remain available until expended: *Provided,* That $73,161,500 of funds appropriated for title III of said Act shall be available only to historically black colleges and universities.

For carrying out subparts 4 and 6 of part A of title IV; part B and subpart 1 of part D of title V; titles VI and VIII, parts A, B, C, D, E, and F of title IX, notwithstanding section 971(g); part B and part D of title VII; subpart 1 of part B and parts A and C of title X; and sections 420A and 1204(c) of the Higher Education Act of 1965, as amended; title XIII, part H, subpart 1 of the Education Amendments of 1980, as amended; and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961; $367,884,000, of which $28,244,000 for parts B and D of title VII shall remain available until expended: *Provided,* That $7,659,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a)): *Provided further,* That $239,000 of the amount provided for part B of title IX shall be competitively awarded to a consortium of historically black colleges and doctoral degree-granting institutions to provide supplemental need-based financial aid to students and faculty from historically black colleges who are pursuing doctoral studies.

For carrying out sections 772, 773, 775, and 776 of part G of title VII of the Higher Education Act, sections 1-5 of Public Law 99-608, and title III, section 303 of Public Law 98-480, $14,217,000 to remain available until expended.

Of any funds appropriated in fiscal year 1988 for a grant to an appropriate consortium of institutions of higher education for carrying out part B of title VII of the Higher Education Act, the limitations contained in sections 702(a) and 721(a)(2) shall not apply.

HIGHER EDUCATION FACILITIES LOANS AND INSURANCE

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year. For the fiscal year 1988, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE CONSTRUCTION LOAN INSURANCE

For carrying out part E of title VII of the Higher Education Act of 1965, as amended, $19,148,000 to be available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation using loan repayments and other resources available to this account: *Provided,* That during fiscal year 1988, gross commitments for the principal amount of direct loans shall be $62,231,000. Any unobligated balances remaining from fixed fees previously paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

Whenever the Secretary, pursuant to sections 762(c) or 783 of the Act, sells, exchanges, or otherwise transfers on a discounted basis obligations or securities held by the Secretary under title VII, part F of the Act, the outstanding balance remaining on the notes of the Secretary issued to the Secretary of the Treasury under section 761(d) of the Act shall be reduced by the amount of the discount. For such transactions occurring prior to the fiscal year 1988, such reduction is effective on September 30, 1987. For such transactions occurring in fiscal year 1988 or thereafter, such reduction is to be effective on the last day of the fiscal year in which the discounted transaction occurs.

EDUCATION RESEARCH AND STATISTICS

For necessary expenses to carry out sections 405 and 406 of the General Education Provisions Act, as amended, $67,526,000, of which $13,390,000 shall be used for the Center for Education Statistics, as authorized under section 406 of the General Education Provisions Act, and $7,563,000 shall be for the National Assessment of Educational Progress, as authorized under section 405(e)(1) of the General Education Provisions Act: *Provided,* That $3,830,000 of the sums appropriated shall be used to continue a rural education program by the nine regional laboratories.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, and VI of the Library Services and Construction Act (20 U.S.C., ch. 16), and title II, parts B, C, and D of the Higher Education Act, notwithstanding the provisions of section 221, $135,089,000: *Provided,* That $22,595,000 of the sums appropriated shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101-106), including

provision of materials to adults undergoing rehabilitation on the same basis as provided in 1985, $5,266,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $31,594,000, of which $191,000 shall be for the endowment program as authorized under section 408 and shall be available until expended: *Provided,* That none of the funds provided herein may be used to subsidize the tuition of foreign students.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), including continuing education activities, existing extension centers and the National Center for Law and the Deaf, $62,195,000, of which $957,000 shall be for the endowment program as authorized under section 407 and shall be available until expended.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $172,203,000.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $241,028,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $40,530,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $17,560,000.

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to audit by the Secretary of Education.

SEC. 303. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 304. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 305. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 306. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1988".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $163,085,000.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1990, $232,648,000: *Provided,* That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further,* That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $24,510,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $3,906,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), $718,000.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

OPERATING EXPENSES

Funds appropriated for operating expenses of the National Commission to Prevent Infant Mortality in the Supplemental Appropriations Act, 1987 (Public Law 100-71) shall remain available until expended.

NATIONAL COUNCIL ON THE HANDICAPPED

SALARIES AND EXPENSES

For expenses necessary for the National Council on the Handicapped as authorized by section 405 of the Rehabilitation Act of 1973, as amended, $892,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, $133,097,000: *Provided,* That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, $7,004,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $5,885,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $2,997,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 601 of Public Law 98-21, $3,592,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $352,323,000, all of which shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for unnegotiated checks, $3,100,000, to remain available through September 30, 1989, which shall be the maximum amount available for payments pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $57,860,000, to be derived from the railroad retirement accounts: *Provided,* That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 1,254 full-time equivalent employees: *Provided further,* That $479,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further,* That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r): *Provided further,* That not to exceed $2,500,000 of funds provided under this head in Public Law 99-591 shall remain available until September 30, 1988, only for retirement claims processing automation activities.

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $13,830,000 shall be apportioned for fiscal year 1988 from moneys credited to the railroad unemployment insurance administration fund: *Provided,* That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 303 full-time equivalent employees.

LIMITATION ON REVIEW ACTIVITY

For expenses necessary for the Railroad Retirement Board for audit, investigatory and review activities, as authorized by section 418 of Public Law 98-76, not more than $2,212,000 to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $35,879,000: *Provided,* That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $15,445,000, to remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $4,308,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided,* That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor, Health and Human Services, and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such

participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 512. (a)(1) In the cases of all appropriations accounts within this Act from which expenses for travel, transportation, and subsistence (including per diem allowances) are paid under chapter 57 of title 5, United States Code, there are hereby prohibited to be obligated under such accounts in fiscal year 1988 a uniform percentage of such amounts, as determined by the President in accordance with the provisions of paragraph (2), as, but for this subsection, would—

(A) be available for obligation in such accounts as of October 1, 1987,

(B) be planned to be obligated for such expenses after such date during fiscal year 1988, and

(C) result in total outlays of $23,600,000 in fiscal year 1988.

(2) Before making determinations under paragraph (1), the President shall obtain from the Director of the Office of Management and Budget and the Comptroller General of the United States recommendations for determinations with respect to (A) the identification of the accounts affected, (B) the amount in each such account available as of such date for obligation, (C) the amounts planned to be obligated for such expenses after such date in fiscal year 1988, and (D) the uniform percentage by which such amounts need to be reduced in order to comply with paragraph (1).

(b) Within 30 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report specifying the determinations of the President under subsection (a).

(c) Sections 1341(a) and 1517 of title 31, United States Code, apply to each account for which a determination is made by the President under subsection (a).

SEC. 513. (a) Subject to subsection (b), none of the funds made available by this or any other Act may be used by the Secretary of Labor to withdraw approval of the California State occupational safety and health plan, or to exercise exclusive Federal safety and health authority in the State of California, under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) The prohibition established in subsection (a) shall apply until the California Supreme Court has rendered a final disposition in the case of Ixta v. Rinaldi (Case No. 3 Civil C 002805).

SEC. 514. (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote or encourage, directly, homosexual sexual activities.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and

(2) abstinence from the use of illegal intravenous drugs.

(c) The homosexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) The illegal drugs referred to in subsection (b) include any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

(e) If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

(1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

SEC. 515. In administering funds made available under this Act for research relating to the treatment of AIDS, the National Institutes of Health shall take all possible steps to ensure that all experimental drugs for the treatment of AIDS, particularly antivirals and immunomodulators, that have shown some effectiveness in treating individuals infected with the human immunodeficiency virus are tested in clinical trials as expeditiously as possible and with as many subjects as is scientifically acceptable.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988".

(i) Such amounts as may be necessary for programs, projects or activities provided for in the Legislative Branch Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

MILEAGE OF THE VICE PRESIDENT AND SENATORS

For mileage of the Vice President and Senators of the United States, $60,000.

EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS, MAJORITY AND MINORITY WHIPS, AND CHAIRMEN OF THE MAJORITY AND MINORITY CONFERENCE COMMITTEES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $10,000 for each such Leader, in all $20,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions, $196,196,700 which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,145,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For Office of the President Pro Tempore, $153,000.

OFFICE OF THE DEPUTY PRESIDENT PRO TEMPORE

For the Office of the Deputy President Pro Tempore, $90,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $1,388,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $431,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $556,500 for each such committee; in all, $1,113,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $270,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $115,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $8,005,000.

ADMINISTRATIVE, CLERICAL, AND LEGISLATIVE ASSISTANCE TO SENATORS

For administrative, clerical, and legislative assistance to Senators, $109,605,500.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $44,161,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $918,000.

AGENCY CONTRIBUTIONS

For agency contributions for employee benefits, as authorized by law, $28,802,200.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $1,764,000: *Provided*, That the amounts appropriated to the Office of the Legislative Counsel of the Senate for fiscal year 1987 shall remain available until September 30, 1988.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $633,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $1,101,500 for each such committee; in all, $2,203,000.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96-304 and Senate Resolution 281, agreed to March 11, 1980, $57,161,000.

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, as authorized by section 814 of the Foreign Relations Authorization Act passed by the Senate on July 31, 1985, $325,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $666,300.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $68,021,000: *Provided*, That of the amounts appropriated under this head in the Legislative Branch Appropriations Act, 1986 (Public Law 99-151), $2,250,000 shall remain available until September 30, 1988.

MISCELLANEOUS ITEMS

For miscellaneous items, $10,183,000: *Provided*, That, from funds appropriated to the Conference of the Majority and from funds appropriated to the Conference of the Minority for any fiscal year, such Conference may utilize such amounts as it deems appropriate for the specialized training of professional staff, subject to such limitations, insofar as they are applicable, as are imposed by the Committee on Rules and Administration with respect to such training when provided to professional staff of standing committees of the Senate.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000.

ADMINISTRATIVE PROVISIONS

SEC. 1. (a) The table and the sentence immediately following such table in subsection (d)(1) of section 105 of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1(d)(1)), is amended to read as follows:

"$740,000 if the population of his State is less than 1,000,000;
"$775,950 if such population is 1,000,000 but less than 2,000,000;
"$811,900 if such population is 2,000,000 but less than 3,000,000;
"$847,850 if such population is 3,000,000 but less than 4,000,000;
"$883,800 if such population is 4,000,000 but less than 5,000,000;
"$919,750 if such population is 5,000,000 but less than 6,000,000;
"$955,700 if such population is 6,000,000 but less than 7,000,000;
"$991,650 if such population is 7,000,000 but less than 8,000,000;
"$1,027,600 if such population is 8,000,000 but less than 9,000,000;
"$1,063,550 if such population is 9,000,000 but less than 10,000,000;
"$1,099,500 if such population is 10,000,000 but less than 11,000,000;
"$1,135,450 if such population is 11,000,000 but less than 12,000,000;
"$1,171,400 if such population is 12,000,000 but less than 13,000,000;
"$1,207,350 if such population is 13,000,000 but less than 14,000,000;
"$1,243,300 if such population is 14,000,000 but less than 15,000,000;
"$1,279,250 if such population is 15,000,000 but less than 16,000,000;
"$1,315,200 if such population is 16,000,000 but less than 17,000,000;
"$1,351,150 if such population is 17,000,000 but less than 18,000,000;
"$1,374,150 if such population is 18,000,000 but less than 19,000,000;
"$1,397,150 if such population is 19,000,000 but less than 20,000,000;
"$1,420,150 if such population is 20,000,000 but less than 21,000,000;
"$1,443,150 if such population is 21,000,000 but less than 22,000,000;
"$1,466,150 if such population is 22,000,000 but less than 23,000,000;
"$1,489,150 if such population is 23,000,000 but less than 24,000,000;
"$1,512,150 if such population is 24,000,000 but less than 25,000,000;
"$1,535,150 if such population is 25,000,000 but less than 26,000,000;
"$1,558,150 if such population is 26,000,000 but less than 27,000,000;
"$1,581,150 if such population is 27,000,000 but less than 28,000,000; and
"$1,604,150 if such population is 28,000,000 or more.

"For any fiscal year, the population of a State shall be deemed to be whichever of the following is the higher:

"(I) the population of such State (as determined for purposes of this paragraph) for the preceding fiscal year; or

"(II) the population of such State as of the first day of such fiscal year, as determined by the latest census (provisional or otherwise) conducted prior to such first day by the Bureau of the Census within the Department of Commerce.

"If the population of any State, as determined under the preceding sentence, is not evenly divisible by 1,000,000, the population of such State shall be deemed to be increased to the next higher multiple of 1,000,000.

"If, for any period after a fiscal year has begun, the census figures of the most recent census conducted prior to the first day of such year have not been officially released, then, for such period, in the administration of this paragraph, it shall be assumed that the population of each State is the same as such State's population (as determined for purposes of this paragraph) for the preceding fiscal year.

"In the event that the term of office of a Senator begins after the first month of a fiscal year or ends (except by reason of death, resignation, or expulsion) before the last month of a fiscal year, the aggregate amount available for gross compensation of employees in the office of such Senator for such year shall be the applicable amount contained in the preceding table, divided by 12, and multiplied by the number of months in such year which are included in the Senator's term of office, counting any fraction of a month as a full month.".

(b) The amendment made by this section shall be effective in the case of fiscal years beginning after September 30, 1987.

SEC. 2. (a) Effective with respect to pay periods beginning on or after the enactment of this Act, the Chaplain of the Senate shall be compensated at a rate equal to the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) The second proviso, under the headings "SENATE" and "Office of the Chaplain", of the Legislative Branch Appropriation Act, 1970 (Public Law 91-145) is amended to read as follows: *"Provided further*, That the Chaplain of the Senate may appoint and fix the compensation of a secretary".

SEC. 3. (a) Section 192 of title I, Chapter IX, of the Supplemental Appropriations Act, 1985 (Public Law 99-88; 99 Stat. 349; 2 U.S.C. 68-5) is amended—

(1) by striking out "and", where it appears immediately after "Minority Whip of the Senate,", and inserting in lieu thereof "one for the attending physician, one as authorized by Senate Resolution 90 of the 100th Congress"; and

(2) by inserting immediately before the period at the end of such section the following: ", and such additional number as is otherwise specifically authorized by law".

(b) The amendments made by subsection (a) shall be effective in the case of fiscal years ending after September 30, 1986.

SEC. 4. Section 151(a) of Public Law 99-591 (100 Stat. 3341-3355) is amended by striking out "during fiscal year 1987".

SEC. 5. Subsection (i) of section 814 of the Foreign Relations Authorization Act, fiscal years 1986 and 1987 (Public Law 99-93), as amended by Public law 99-151, is amended by striking out "1987" and inserting "1988".

SEC. 6. Effective in the case of fiscal years beginning after September 30, 1986, the first sentence of section 107(a) of the Supplemental Appropriations Act, 1979 (Public Law 96-38; 2 U.S.C. 69a), is amended by striking out "$2,000" and inserting in lieu thereof "$4,000".

SEC. 7. The Chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1988, at his election, transfer not more than $50,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

SEC. 8. (a) The Secretary of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Secretary of the Senate, such sums as he shall specify to the Senate appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Secretary"; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred.

(b) The Sergeant at Arms and Doorkeeper of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, such sums as he shall specify to the appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Sergeant at Arms and Doorkeeper"; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred.

SEC. 9. Section 114 of Public Law 95-94, as amended (2 U.S.C. 61-1a), is amended to read as follows:

"SEC. 114. Notwithstanding any other provision of law appropriated funds are available for payment to an individual of pay from more than one position, each of which is either in the office of a Senator and the pay of which is disbursed by the Secretary of the Senate or is in another office and the pay of which is disbursed by the Secretary of the Senate out of an appropriation under the heading "SALARIES, OFFICERS, AND EMPLOYEES", if the aggregate gross pay from those positions does not exceed the maximum rate specified in section 105(d)(2) of the Legislative Appropriations Act of 1968, as amended and modified.".

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Lucie C. McKinney, widow of Stewart B. McKinney, late a Representative from the State of Connecticut, $89,500.

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, $210,000.

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $3,456,000, including: Office of the Speaker, $798,000, including $18,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $708,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $789,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, $621,000, including $5,000 for official expenses of the Majority Whip and not to exceed $149,950 for the Chief Deputy Majority Whip; Office of the Minority Whip, $540,000, including $5,000 for official expenses of the Minority Whip and not to exceed $79,150 for the Chief Deputy Minority Whip.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of his official and representative duties, $174,556,000.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $49,102,000.

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $329,000.

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $52,418,000.

ALLOWANCES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For allowances and expenses as authorized by House resolution or law, $174,797,000, including: Official Expenses of Members, $81,523,000; supplies, materials, administrative costs and Federal tort claims, $16,719,000; furniture and furnishings, $1,005,000; stenographic reporting of committee hearings, $550,000; reemployed annuitants reimbursements, $1,118,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $73,260,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, restaurants, interparliamentary receptions and gratuities to heirs of deceased employees of the House, $622,000: *Provided*, That effective upon enactment of this Act, an amount not to exceed $132,000 shall be made available by transfer from the appropriation for "House office buildings, 1987, No year" for deposit in the account established by section 208 of the First Supplemental Civil Functions Appropriations Act, 1941 (40 U.S.C. 174k(b)).

Such amounts as are deemed necessary for the payment of allowances and expenses under this head may be transferred between the various categories within this appropriation, "Allowances and expenses", upon the approval of the Committee on Appropriations of the House of Representatives.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $4,300,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $54,529,000, including: Office of the Clerk, $14,917,000; Office of the Sergeant at Arms, including overtime, as authorized by law, $21,180,000; Office of the Doorkeeper, including overtime, as authorized by law, $7,915,000; Office of the Postmaster, $2,517,000, including $48,124 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed $16,766 per annum each; Office of the Chaplain, $75,000; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $716,000; for salaries and expenses of the Office for the Bicentennial of the House of Representatives, $243,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $870,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $3,025,000; six minority employees, $447,000; the House Democratic Steering Committee and Caucus, $721,000; the House Republican Conference, $721,000; and other authorized employees, $1,182,000.

Such amounts as are deemed necessary for the payment of salaries of officers and employees under this head may be transferred between the various offices and activities within this appropriation, "Salaries, officers and employees", upon the approval of the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. Of the amounts appropriated in fiscal year 1988 for the House of Representatives under the headings "Committee employees", "Standing committees, special and select", "Salaries, officers and employees", "Allowances and expenses", "House leadership offices", and "Members' clerk hire", such amounts as are deemed necessary for the payment of salaries and expenses may be transferred among the aforementioned accounts upon approval of the Committee on Appropriations of the House of Representatives.

SEC. 102. (a) One additional employee is authorized for each of the following:

(1) the House Democratic Steering and Policy Committee; and

(2) the House Republican Conference.

(b) The annual rate of pay for the positions established under subsection (a) shall not exceed 60 percent of the annual rate of pay payable from time to time for level V of the Executive Schedule under section 5316 of title 5, United States Code.

JOINT ITEMS

For joint committees, as follows:

CONTINGENT EXPENSES OF THE SENATE

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $3,179,000.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $1,037,000.

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $4,219,000, to be disbursed by the Clerk of the House.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,000 per month to the Attending Physician; (2) an allowance of $600 per month to one Senior Medical Officer while on duty in the Attending Physician's office; (3) an allowance of $200 per month each to two medical officers while on duty in the Attending Physician's office; (4) an allowance of $200 per month each to not to exceed twelve assistants on the basis heretofore provided for such assistance; and (5) $963,600 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,493,000, to be disbursed by the Clerk of the House.

CAPITOL POLICE

GENERAL EXPENSES

For purchasing and supplying uniforms; the purchase, maintenance, and repair of police motor vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training or other purposes, and

expenses associated with the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $85 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, $1,734,000, to be disbursed by the Clerk of the House: *Provided,* That the funds used to maintain the petty cash fund referred to as "Petty Cash II" which is to provide for the prevention and detection of crime shall not exceed $4,000: *Provided further,* That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed $4,000: *Provided further,* That, notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1988 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs, $82,163,000, to be disbursed by the Clerk of the House, to be available immediately upon enactment of this Act: *Provided,* That funds appropriated for such purpose for the fiscal year ending September 30, 1987, shall remain available until expended.

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, $1,137,000, to be disbursed by the Secretary of the Senate: *Provided,* That none of these funds shall be used to employ more than thirty-three individuals: *Provided further,* That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the first session of the One Hundredth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $19,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), including reception and representation expenses (not to exceed $3,000 from the Trust Fund), and rental of space in the District of Columbia, and those necessary to carry out the duties of the Director of the Office of Technology Assessment under section 1886 of the Social Security Act as amended by section 601 of the Social Security Amendments of 1983 (Public Law 98-21), and those necessary to carry out the duties of the Director of the Office of Technology Assessment under part B of title XVIII of the Social Security Act as amended by section 9305 of the Consolidated Omnibus Reconciliation Act of 1985 (Public Law 99-272), $16,901,000: *Provided,* That none of the funds in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further,* That no part of this appropriation shall be available for assessments or activities not initiated and approved in accordance with section 3(d) of Public Law 92-484, except that funds shall be available for the assessment required by Public Law 96-151: *Provided further,* That none of the funds in this Act shall be available for salaries or expenses of employees of the Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations made under this Act, or be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study, except that funds shall be available for and reimbursement can be accepted for salaries or expenses of the Office of Technology Assessment in connection with the assessment required by section 101(b) of Public Law 99-190.

BIOMEDICAL ETHICS BOARD

SALARIES AND EXPENSES

For the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee, as authorized by section 381 of the Public Health Service Act (Public Law 99-158), $100,000: *Provided,* That of the amounts appropriated under this head in the Legislative Branch Appropriations Act, 1987 (as enacted by Public Law 99-500 and Public Law 99-591), shall remain available for obligation until September 30, 1988.

CONGRESSIONAL AWARD BOARD

CONGRESSIONAL AWARD PROGRAM

Notwithstanding any other provision of law, there is appropriated to the Congressional Award Board (established by Public Law 96-114; 2 U.S.C. 801) the sum of $189,000, to be disbursed by the Clerk of the House upon vouchers approved by the Chairman of the Congressional Award Board or another member of the Board as delegated by the Chairman, to remain available without fiscal year limitation: *Provided,* That notwithstanding any provision of such Public Law 96-114, such sum shall be used by the Congressional Award Board in the same manner and for the same purposes, and subject to the same limitations, as are funds donated to such Board by private individuals: *Provided further,* That these funds may only be used for routine operational purposes and may not be allocated for the payment of any debt outstanding as of the date of enactment of this Act.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), $17,886,000: *Provided,* That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further,* That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 226 staff employees: *Provided further,* That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98-63.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; the Executive Assistant; and other personal services; at rates of pay provided by law, $5,925,000.

TRAVEL

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $10,000.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $48,000.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, and for security installations, which are approved by the Capitol Police Board, authorized by House Concurrent Resolution 550, Ninety-second Congress, agreed to September 19, 1972, the cost limitation of which is hereby further increased by $111,000, $12,793,000, of which $360,000 shall remain available until expended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House Office Buildings, and the Capitol Power Plant, $3,404,000.

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings, to be expended under the control and supervision of the Architect of the Capitol, $23,265,000, of which $3,943,000 shall remain available until expended: *Provided,* That $928,000 of funds provided under this head are for improvements to the Senate Restaurants kitchen in the Dirksen Building: *Provided further,* That no obligations can be made from this amount for improvements to the Senate Restaurants kitchen in the Dirksen Building without the prior approval of the Committee on Appropriations of the United States Senate.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House Office Buildings, including the position of Superintendent of Garages as authorized by law, $30,547,000, of which $8,010,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; for lighting, heating, and power (including the purchase of electrical

energy) for the Capitol, Senate and House Office Buildings, Congressional Library Buildings, and the grounds about the same, Botanic Garden, Senate garage, and for air conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office and Washington City Post Office and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation; $24,583,000: *Provided*, That not to exceed $1,950,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1988.

ADMINISTRATIVE PROVISIONS

SEC. 103. Notwithstanding any other provisions of law, the Architect of the Capitol is hereby authorized to (1) develop a pilot program to determine the economic feasibility and efficiency of centralizing certain maintenance functions, to assign and reassign, without increase or decrease in basic salary or wages, any person on the employment rolls of the Office of the Architect of the Capitol, for personal services in any buildings, facilities, or grounds under his jurisdiction for which appropriations have been made and are available; (2) maintain appropriate cost and productivity records for the program; and (3) report to appropriate authorities, including the Committees on Appropriations, on the results of the program, together with recommendations for continuation or expansion of the program.

SEC. 104. The Architect of the Capitol, under the direction of the Joint Committee on the Library, is authorized to accept donations to restore and display the Statue of Freedom model.

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $43,022,000: *Provided*, That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: *Provided further*, That, notwithstanding any other provisions of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and for printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $70,359,000: *Provided*, That funds remaining from the unexpended balances from obligations made under prior year appropriations for this account shall be available for the purposes of the printing and binding account for the same fiscal year: *Provided further*, That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further*, That, to the extent that funds remain from the unexpended balance of fiscal year 1984 and fiscal year 1985 funds obligated for the printing and binding costs of publications produced for the Bicentennial of the Congress, such remaining funds shall be available for the current year printing and binding cost of publications produced for the Bicentennial: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1988".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $2,221,000.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including the Speaker's Civic Achievement Awards Program, subject to authorization, development and maintenance of the Union Catalogs; custody, care and maintenance of the Library Buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $143,866,000, of which not more than $5,000,000 shall be derived from collections credited to this appropriation during fiscal year 1988 under the Act of June 28, 1902, as amended (2 U.S.C. 150): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $5,000,000: *Provided further*, That, of the total amount appropriated, $4,944,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $19,061,000, of which not more than $7,000,000 shall be derived from collections credited to this appropriation during fiscal year 1988 under 17 U.S.C. 708(c), and not more than $931,000 shall be derived from collections during fiscal year 1988 under 17 U.S.C. 111(d)(3) and 116(c)(1): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,931,000: *Provided further*, That $150,000 of the unobligated balance of that part of the appropriation "Salaries and Expenses, Copyright Office" for the fiscal year 1987, for the acquisition of a stand-alone data system for the processing of cable television statements and jukebox registrations, shall remain available until September 30, 1988.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), $36,186,000.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $5,816,000, of which $4,781,000 shall be available until expended only for the purchase and supply of furniture, shelving, furnishings, and related costs necessary for the renovation and restoration of the Thomas Jefferson and John Adams Library Buildings.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $101,390 of which $23,900 is for the Congressional Research Service, when specifically authorized by the Librarian, for expenses of attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15; and

(2) grants the manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees.

SEC. 204. No funds shall be expended by the Library of Congress for the purpose of providing long-term special study facilities for profit or non-profit business enterprises until guidelines for such use are approved by the Joint Committee on the Library.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $6,741,000, of which $365,000 shall remain available until expended.

COPYRIGHT ROYALTY TRIBUNAL

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Tribunal, $662,000, of which $533,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For necessary expenses of the Office of Superintendent of Documents, including compensation of all employees in accordance with the provisions of 44 U.S.C. 305; travel expenses (not to exceed $117,000); price lists and bibliographies; repairs to buildings, elevators, and machinery; and supplying publications to the Depository Library and International Exchange Programs, $24,662,000, of which $5,500,000 representing excess receipts from the sale of publications shall be derived from the Government Printing Office revolving fund: *Provided,* That $300,000 of this appropriation shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 1512), with the approval of the Public Printer, only to the extent necessary to provide for expenses (excluding permanent personal services) for workload increases not anticipated in the budget estimates and which cannot be provided for by normal budgetary adjustments.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided,* That not to exceed $5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further,* That during the current fiscal year the revolving fund shall be available for the hire of eight passenger motor vehicles: *Provided further,* That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further,* That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18: *Provided further,* That the revolving fund shall be available to acquire needed land, located in Northwest D.C., which is adjacent to the present Government Printing Office, and is bounded by Massachusetts Avenue and the southern property line of the Government Printing Office, between North Capitol Street and First Street. The land to be purchased is identified as Parcels 45-D, 45-E, 45-F, and 47-A in Square 625, and includes the alleys adjacent to these parcels, and G Street, N.W. from North Capitol Street to First Street: *Provided further,* That the revolving fund and the funds provided under the paragraph entitled "Office of Superintendent of Documents, Salaries and expenses" together may not be available for the full-time equivalent employment of more than 5,237 workyears.

ADMINISTRATIVE PROVISION

SEC. 205. Funds authorized to be expended by the Government Printing Office for fiscal year 1988, not to exceed $55,000, shall be available without regard to the 25 per centum limitation of section 322 of the Economy Act of June 30, 1932, as amended, for the repair, alteration, and improvement of rented premises.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $5,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); $329,847,000: *Provided,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: *Provided further,* That this appropriation shall be available to finance a portion, not to exceed $50,000, of the costs of the Governmental Accounting Standards Board: *Provided further,* That $50,000 of this appropriation shall be available for the expenses of planning the triennial Congress of the International Organization of Supreme Audit Institutions (INTOSAI) to be hosted by the United States General Accounting Office in Washington, D.C., in 1992, to the extent that such expenses cannot be met from the trust authorized below: *Provided further,* That the General Accounting Office is authorized to solicit and accept contributions (including contributions from INTOSAI), to be held in trust, which shall be available without fiscal year limitation for the planning, administration, and such other expenses as the Comptroller General deems necessary to act as the sponsor of the aforementioned triennial Congress of INTOSAI. Monies in the trust not to exceed $10,000 shall be available upon the request of the Comptroller General to be expended for the purposes of the trust.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration or for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided,* That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) The Architect of the Capitol, in consultation with the heads of the agencies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Commit-

tee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded telecommunications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

(b) As used in this section—

(1) the term "agency of the legislative branch" means, the office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment.

SEC. 306. Hereafter, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with each appropriation account in this Act, except that the accounts under the general heading "House of Representatives" shall be considered one appropriation account and one "program, project, and activity", and the accounts under the general heading "Senate" shall be considered one appropriation account and one "program, project, and activity".

SEC. 307. (a) Notwithstanding section 105 of title 4, United States Code, or any other provision of law, no person shall be required to pay, collect, or account for any sales, use, or similar excise tax, or any personal property tax, with respect to an essential support activity or function conducted by a nongovernmental person in the Capitol, the House Office Buildings, the Senate Office Buildings, the Capitol Grounds, or any other location under the control of the Congress in the District of Columbia.

(b) As used in this section—

(1) the term "essential support activity or function" means a support activity or function so designated by the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate, acting jointly or separately, as appropriate;

(2) the term "personal property tax" means a tax of a State, a subdivision of a State, or any other authority of a State, that is levied on, levied with respect to, or measured by, the value of personal property;

(3) the term "sales, use, or similar excise tax" means a tax of a State, a subdivision of a State, or any other authority of a State, that is levied on, levied with respect to, or measured by, sales, receipts from sales, or purchases, or by storage, possession, or use of personal property; and

(4) the term "State" means a State of the United States, the District of Columbia, or a territory or possession of the United States.

(c) This section shall apply to any sale, receipt, purchase, storage, possession, use, or valuation taking place after December 31, 1986.

SEC. 308. (a) Notwithstanding any other provision of law, the pay for positions described in subsection (b) shall be the amounts specified for such positions in appropriations Acts.

(b) The positions referred to in subsection (a) are: (1) the two positions of assistant referred to in the proviso in the first undesignated paragraph under the center subheadings "OFFICE OF THE ARCHITECT OF THE CAPITOL" and "SALARIES" in the Legislative Branch Appropriation Act, 1971 (40 U.S.C. 164a), and (2) the seven positions provided for in the third and fourth undesignated paragraphs under the center subheadings "OFFICE OF THE ARCHITECT OF THE CAPITOL" and "SALARIES" in the Legislative Branch Appropriation Act, 1960 (40 U.S.C. 166b-3).

(c) The pay for each position described in subsection (b) shall be the pay payable for such position with respect to the last pay period before this section takes effect, subject to any applicable adjustment during fiscal year 1988 under, or by reference to any applicable adjustment during fiscal year 1988 under, subchapter I of chapter 53 of title 5, United States Code.

(d) This section shall apply in fiscal years beginning after September 30, 1987, with respect to pay periods beginning after the date of the enactment of this Act.

SEC. 309. (a) None of the funds appropriated for fiscal year 1988 by this Act or any other law may be obligated or expended by any entity of the executive branch for the procurement from commercial sources of any printing related to the production of Government publications (including forms), unless such procurement is by or through the Government Printing Office.

(b) Subsection (a) does not apply to (1) individual printing orders costing not more than $1,000, if the work is not of a continuing or repetitive nature, (2) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or (3) printing from commercial sources that is specifically authorized by law or is of a kind that has not been routinely procured by or through the Government Printing Office.

(c) As used in this section, the term "printing" means the process of composition, platemaking, presswork, binding, and microform, and the end items of such processes.

SEC. 310. The provision of law which was derived from section 80 of the Revised Statutes and which currently is carried as the second sentence of section 131 of title 2, United States Code, is hereby repealed.

SEC. 311. (a) The first sentence of section 4(a) of Public Law 91-656 (2 U.S.C. 60a-1) is amended by striking out the period at the end and inserting "and adjust the rates of such personnel by such amounts as necessary to restore the same pay relationships that existed on December 31, 1986, between personnel and Senators and between positions.".

(b) Section 4(d) of such public law is amended by striking out the period at the end and inserting ", except in cases in which it is necessary to restore and maintain the same pay relationships that existed on December 31, 1986, between personnel and Senators and between positions.".

(c) Notwithstanding any other provision of this Act or any other provision of law, subsections (a) and (b) of this section shall be effective in the case of pay orders issued by the President pro tempore of the Senate on or after January 1, 1988.

(d) Notwithstanding any other provision of this Act, or any other provision of law, rule, or regulation, hereafter each time the President pro tempore of the Senate exercises any authority pursuant to any of the amendments made by this section with respect to rates of pay or any other matter relating to personnel whose pay is disbursed by the Secretary of the Senate, the Speaker of the House of Representatives may, with respect to personnel whose pay is disbursed by the Clerk of the House of Representatives, exercise the same authority to the extent necessary to ensure parity of treatment between personnel of the respective Houses of Congress having comparable duties and responsibilities.

This Act may be cited as the "Legislative Branch Appropriations Act, 1988".

(j) Such amounts as may be necessary for programs, projects or activities provided for in the Military Construction Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1988, and for other purposes.

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander-in-Chief, $977,590,000, to remain available until September 30, 1992: *Provided*, That of this amount, not to exceed $120,120,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 98-473, $6,800,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 99-173, $28,000,000 is hereby rescinded.

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,417,311,000, to remain available until September 30, 1992: *Provided*, That of this amount, not to exceed $130,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Navy" under Public Law 98-473, $6,800,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Navy" under Public Law 99-173, $19,400,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facili-

ties, and real property for the Air Force as currently authorized by law, $1,241,254,000, to remain available until September 30, 1992: *Provided*, That of this amount, not to exceed $115,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Air Force" under Public Law 98-473, $6,300,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Air Force" under Public Law 99-173, $18,500,000 is hereby rescinded: *Provided further*, That none of the funds appropriated for planning, design, or construction of military facilities or family housing may be used to support the relocation of the 401st Tactical Fighter Wing from Spain to another country.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $558,446,000, to remain available until September 30, 1992: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed $55,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 98-473, $1,900,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 99-173, $5,300,000 is hereby rescinded.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

(INCLUDING RESCISSION)

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $381,000,000, to remain available until expended: *Provided*, That of the funds appropriated for "North Atlantic Treaty Organization Infrastructure" under Public Law 99-173, $8,000,000 is hereby rescinded.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

(INCLUDING RESCISSION)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $184,405,000, to remain available until September 30, 1992: *Provided*, That of the funds appropriated for "Military Construction, Army National Guard" under Public Law 99-173, $2,500,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

(INCLUDING RESCISSIONS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $151,291,000, to remain available until September 30, 1992: *Provided*, That of the funds appropriated for "Military Construction, Air National Guard" under Public Law 98-473, $200,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Air National Guard" under Public Law 99-173, $3,300,000 is hereby rescinded.

MILITARY CONSTRUCTION, ARMY RESERVE

(INCLUDING RESCISSION)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $95,100,000, to remain available until September 30, 1992: *Provided*, That of the funds appropriated for "Military Construction, Army Reserve" under Public Law 99-173, $1,800,000 is hereby rescinded.

MILITARY CONSTRUCTION, NAVAL RESERVE

(INCLUDING RESCISSION)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $73,737,000, to remain available until September 30, 1992: *Provided*, That of the funds appropriated for "Military Construction, Naval Reserve" under Public Law 99-173, $1,200,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

(INCLUDING RESCISSIONS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $79,300,000, to remain available until September 30, 1992: *Provided*, That of the funds appropriated for "Military Construction, Air Force Reserve" under Public Law 98-473, $200,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Air Force Reserve" under Public Law 99-173, $1,800,000 is hereby rescinded.

FAMILY HOUSING, ARMY

(INCLUDING RESCISSIONS)

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $305,890,000; for Operation and maintenance, and for debt payment, $1,255,121,000; in all $1,561,011,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1992: *Provided further*, That of the funds appropriated for "Family Housing, Army" under Public Law 98-473, $900,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Family Housing, Army" under Public Law 99-173, $19,400,000 is hereby rescinded.

FAMILY HOUSING, NAVY AND MARINE CORPS

(INCLUDING RESCISSIONS)

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $237,914,000; for Operation and maintenance, and for debt payment, $530,028,000; in all $767,942,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1992: *Provided further*, That of the funds appropriated for "Family Housing, Navy and Marine Corps" under Public Law 98-473, $400,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Family Housing, Navy and Marine Corps" under Public Law 99-173, $8,800,000 is hereby rescinded.

FAMILY HOUSING, AIR FORCE

(INCLUDING RESCISSIONS)

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $152,310,000; for Operation and maintenance, and for debt payment, $691,983,000; in all $844,293,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1992: *Provided further*, That of the funds appropriated for "Family Housing, Air Force" under Public Law 98-473, $2,400,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Family Housing, Air Force" under Public Law 99-173, $12,300,000 is hereby rescinded.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $1,186,000; for Operation and maintenance, $19,514,000; in all $20,700,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1992.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $2,800,000.

FOREIGN CURRENCY FLUCTUATIONS, CONSTRUCTION, DEFENSE

For foreign currency fluctuations, construction, Defense, $85,000,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except; (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided*, That the low responsive and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 110. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 111. No part of the funds appropriated in this Act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

SEC. 112. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 113. None of the funds in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 114. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 115. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 116. The Secretary of Defense is to inform the Committees on Appropriations and Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 117. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1988, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 118. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 119. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the first session of the One Hundredth Congress.

SEC. 120. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1988, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1988 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

SEC. 121. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 122. Notwithstanding any other provision of law, the Secretary of the Air Force is required to maintain legislative liaison to the House and Senate Appropriations Subcommittees on Military Construction and budgetary and fiscal management of the Military Construction and Military Family Housing appropriations in a manner identical to the method employed as of September 30, 1986.

SEC. 123. Notwithstanding any other provision of law, including the certification requirements provided in section 210 of title 23, United States Code, the Secretary of Defense is directed to provide for the design of access roads for the New Cumberland Army Depot, Pennsylvania and for the Tobyhanna Army Depot, Pennsylvania, as well as design of replacement bridges at Broad Creek and at Gales Creek on North Carolina Highway 24, within funds provided in this Act.

SEC. 124. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

SEC. 125. None of the funds appropriated by this or any other Act for the Department of Defense may be obligated or expended for the National Test Bed Components of the National Test Facility at Falcon Air Station, Colorado, until the Strategic Defense Initiative Organization (SDIO) has begun the development of the Phase One Strategic Defense System (SDS) Architecture and the Follow-on Strategic Defense System Architecture and the Committees on Appropriations of the Senate and the House of Representatives have thereafter received an interim report from SDIO on the Phase One System Architecture and follow-on architecture that the National Test Facility will be testing and evaluating; and until SDIO has provided a detailed report to the Committees on Appropriations of the Senate and the House of Representatives on the capability of the National Test Facility and the other components of the National Test Bed to produce the simulation, evaluation, and demonstration data needed to determine whether a proposed ballistic missile defense system satisfies the criteria of technical feasibility, cost-effectiveness at the margin, and survivability: *Provided*, That, none of the funds appropriated by this or any other Act for the National Test Facility or any other components of the National Test Bed may be used to provide any operational battle management, command, control or communications capabilities for an early deployment of a ballistic missile defense

tus projects shall expire on September 30, 1989, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $133,105,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $1,169,532,000 for rental of space; (5) not to exceed $805,384,000 for real property operations; (6) not to exceed $48,014,000 for program direction and centralized services; and (7) not to exceed $110,036,000 for design and construction services which shall remain available until expended: *Provided further,* That the Administrator of General Services is hereby directed to enter into a contract for construction of a building in Oakland, California, on a site donated by the city of Oakland. The contract shall provide, by lease or installment payments over a period not to exceed 30 years, for the payment of the purchase price, which shall not exceed $141,700,000, and reasonable interest thereon. The contract shall further provide that title to the building shall vest in the United States at or before the expiration of the contract term upon fulfillment of the terms and conditions of the contract: *Provided further,* That the Administrator of the GSA is hereby directed to enter into an agreement, pursuant to a competitive selection process, for the lease-purchase of a building in San Francisco, California, during fiscal year 1988 of approximately 430,000 office occupiable square feet on a site donated by that city: *Provided further,* That the agreement shall provide for annual lease or installment payments from funds available for the rental of space in the Federal Buildings Fund over a period not to exceed 30 years for the payment of the purchase price of such building, and shall provide for title to the building to vest in the United States on or before the expiration of the contract term upon fulfillment of the terms and conditions of the agreement: *Provided further,* That additional space may be acquired if the Administrator finds such space to be in the public interest and will not reduce the occupiable Federal space to be available in the Oakland Federal Building. The Oakland Building shall, when completed be fully occupied by federal agencies and continued full occupancy shall have the highest priority consistent with the Federal [26] interest: *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further,* That none of the funds available to the General Services Administration with the exception of those for Capital Improvements for United States-Mexico Border Facilities; Other Approved Border Facility projects; and the San Francisco, California Federal building project, shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further,* That notwithstanding any other provision of law, the Administrator of General Services is authorized, under section 210(h) of the Federal Property and Administrative Services Act of 1949, to acquire the building in Chicago, Illinois, approved under this heading in fiscal year 1987, from any commercial or private entity, through a lease to ownership transaction. Said lease shall not exceed 30 years, on such terms and conditions as he deems appropriate. These terms and conditions may include an option to permit the Federal Government, if the Administrator deems that it is in the best interest of the Federal Government, to execute a succeeding lease: *Provided further,* That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That not later than 60 days after the date of the enactment of this Act, the Administrator of General Services shall submit under the Public Buildings Act of 1959, a prospectus for acquiring by purchase or lease-purchase (1) a building which is not to exceed 1,400,000 occupiable square feet for the Environmental Protection Agency in the Washington metropolitan area, and (2) a building which is not to exceed 1,800,000 occupiable square feet for the Department of Transportation. The lease-purchase shall provide for annual lease or installment payments from funds available for the rental of space in the Federal Buildings Fund over a period not to exceed 30 years for the payment of the purchase price of such building and reasonable interest thereon and shall provide for title to the building to vest in the United States on or before the last day of the term of the lease-purchase transaction. If a lease-purchase prospectus for a building described in this paragraph is approved under the Public Buildings Act of 1959, the Administrator of General Services may enter into a transaction for the lease-purchase of such building in accordance with the terms specified in such approved prospectus and applicable provisions of law and may make annual lease or installment payments from funds available for the rental of space in such fund: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further,* That revenues and collections and any other sums accruing to this fund during fiscal year 1988 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $2,854,052,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities through September 30, 1988, and supply distribution (including contractual services incident to receiving, handling and shipping supply items), procurement (including royalty payments), inspection, standardization, and related supply operations activities not later than March 31, 1987, including services as authorized by 5 U.S.C. 3109; $69,600,000: *Provided,* That notwithstanding any other provisions of law, costs incurred during the period October 1, 1987, through March 31, 1987, directly related to supply operations activities, not covered by this appropriation, shall be recorded as costs in the General Supply Fund, General Services Administration: *Provided further,* That the annual limitation of $5,200,000 through September 30, 1989, in the Supplemental Appropriations Act, 1985, Public Law 99-88, payable from overcharges collected, for expenses of transportation audit contracts and contract administration, is hereby superseded by Public Law 99-627 establishing permanent authority for these expenses at not to exceed 40 percent of the overpayments collected annually.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.) including services as authorized by 5 U.S.C. 3109 and reimbursement for recurring security guard service; $12,000,000 to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5), and in addition, $30,000,000 for the transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile by reimbursement from the National Defense Stockpile Transaction Fund.

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

SECTION 1. During the fiscal year ending September 30, 1988, not to exceed $35,000,000, in addition to amounts previously appropriated, all to remain available until expended, may be obligated from amounts in the National Defense Stockpile Transaction Fund, for the acquisition and upgrading of strategic and critical materials under section 6(a) (1) and (3) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a) (1) and (3)), transportation, storage, and other incidental expenses related to such acquisition and upgrades, development of current specifications of stockpile materials and the upgrading of existing stockpile materials to meet current specifications (including transportation, when economical, related to such upgrading), testing and quality studies of stockpile materials,

[26] Copy read "federal".

studying future material and mobilization requirements for the stockpile and other reasonable requirements for management of the stockpile, including relocation, operating, and management expenses incident to operating the stockpile, are hereby authorized to the extent provided in Appropriations Acts.

SEC. 2. For the fiscal year ending September 30, 1988, in addition to the funds previously appropriated for the National Defense Stockpile Transaction Fund, notwithstanding the provisions of 50 U.S.C. 98h, there are hereby appropriated $10,000,000 under this heading and $9,000,000 in section 101(b) of this joint resolution, to remain available until expended, the amounts to be allocated for the following projects:

University of Hawaii at Manoa pursuant to 50 U.S.C. 98a and 98g(a), for a grant for construction of a strategic materials research facility, $5,000,000;

University of Utah pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Biomedical Polymers, $4,000,000;

University of Massachusetts at Amherst pursuant to 50 U.S.C. 98a and 98g(a) for a grant for continued construction of a strategic materials research facility, $5,000,000;

University of Arizona pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Advanced Studies for Copper Recovery and Utilization, $4,000,000; and

University of New Mexico pursuant to 50 U.S.C. 98 a and g for a grant to study replacements for metallic alloys that use critical materials, $1,000,000.

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109; $122,500,000, of which $800,000 shall be available only for, and is hereby specifically earmarked for personnel and associated costs in support of Congressional District and Senate State offices: *Provided*, That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code.

REAL PROPERTY RELOCATION

For expenses not otherwise provided for, $5,000,000, to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided*, That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for payments to other Federal entities to accomplish the relocation functions: *Provided further*, That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property.

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $31,193,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General; $24,334,000: *Provided*, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $1,198,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 4. Funds in the Federal Buildings Fund made available for fiscal year 1988 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 5. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States.

SEC. 6. The Bureau of Mines should completely vacate all space at the Columbia Plaza building no later than September 30, 1988. In the event that it becomes necessary to acquire leased space for the Bureau of Mines, the Administrator of General Services shall competitively acquire space for the Bureau of Mines and select quality space at the lowest possible cost in the Washington Metropolitan Area. If such space is acquired by GSA, the Bureau of Mines shall immediately relocate to the space acquired by the GSA.

SEC. 7. (a) The General Accounting Office shall, within 60 days after the date of enactment of this Act, submit an estimate of the fair market value of the main post office in Denver, Colorado, located at 1823 Stout Street to the General Services Administration, the Congress of the United States, the United States Postal Service, and the Administrative Office of the United States Courts.

(b) Within 30 days after obtaining the estimate made pursuant to subsection (a) the United States Postal Service shall transfer the use and benefit of the lot on which the main post office in Denver is located along with such post office building, improvements and any other structures on such lot to the General Services Administration, and from such date such lot and structures shall be considered to be held for the use and benefit of the United States courts for the Tenth Circuit.

(c) In making the transfer pursuant to subsection (b), the General Services Administration and the United States Postal Service shall use, as the market value of such property, the estimate submitted by the General Accounting Office pursuant to this section and the United States Postal Service shall receive as compensation therefor, the fair market value of such lot, buildings and improvements, as determined by the General Accounting Office.

(d) The United States Postal Service shall surrender possession of the second, third and fourth floors of such post office building to the General Services Administration not later than 1 year after the date of the transfer thereof as provided in this section and, except as provided in subsection (e), shall surrender possession of the balance of such post office building not later than 2 years after such date.

(e) The General Services Administration shall permit the United States Postal Service to continue to occupy such area on the first floor of such main post office building not in excess of 18,000 square feet as shall be determined by the General Services Administration after consultation with the Administrative Office of the United States Courts and the United States Postal Service.

(f) Pursuant to section 210(f) of the Federal Property and Administrative Service Act of 1949, the Administrator of General Services is authorized to charge the United States Postal Service for all space and services furnished to the United States Postal Service in such main post office building after the date of the conveyance provided in this section.

(g) Notwithstanding any other provision of law, the General Services Administration is hereby authorized to sell, at competitive bid, block 111, located at 20th and Curtis

Streets in Denver, Colorado, and to deposit such sale proceeds into the Federal Buildings Fund.

(h) There are authorized to be appropriated such sums as are necessary to cover the costs of obtaining such post office building for the courts for the Tenth Circuit. Such costs shall include—

(1) amounts necessary to transfer the lot, main post office building, improvements and any other structures on such lot pursuant to subsection (b);

(2) appropriate renovations of such post office building for the Tenth Circuit to use such building as the principal office of such courts; and

(3) the transfer of such courts from their current building to such post office building.

(i) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary to carry out the purposes of subsection (h).

SEC. 8. The Administrator of General Services is hereby directed to submit a prospectus to the Congress within 60 days to enable the Administrator to contract for construction of two buildings not to exceed a total of 1,600,000 gross square feet of office space, plus additional parking and retail space, in New York City on sites to be acquired from the city of New York. The contracts shall provide, by lease or installment payments over a period not to exceed 30 years, from funds available for the rental of space in the Federal Buildings Fund for the payment of the purchase price, and reasonable interest thereon. The contracts shall further provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. If a lease-purchase prospectus for a building described in this paragraph is approved under the Public Buildings Act of 1959, the Administrator of General Services may enter into a transaction for the lease-purchase of such building in accordance with the terms specified in such approved prospectus and applicable provisions of law and may make annual lease or installment payments from the funds available for the rental of space in such Fund. The General Services Administration shall lease up to 400,000 square feet of office space and associated parking to the city of New York at rates that reflect an appropriate portion of the construction and related costs of the projects, adjusted for the value of the land acquired from the city. In addition, income accrued by the General Services Administration from the outlease of office space to the city as well as retail and related space to private organizations shall be used to offset GSA's installment payments for the cost of the facilities. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. 1341(a)(1)(B).

SEC. 9. The Administrator of General Services shall proceed with the site selection and design for construction of a facility of not less than 182,000 usable square feet for the Social Security Administration in Wilkes-Barre, Pennsylvania, pursuant to section 115 of the joint resolution entitled, "A Joint Resolution making continuing appropriations for the fiscal year 1987 and for other purposes", approved October 30, 1986 (100 Stat. 3341-49; Public Law 99-591).

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $116,000,000 of which $4,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended, and of which $6,000,000 for design and planning of a new archival facility in Maryland shall remain available until expended.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; $101,834,000 in addition to $67,746,000 for administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1988, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

REVOLVING FUND

Pursuant to section 4109(d)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $1,788,931,000, to remain available until expended.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $4,720,913,000: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended (22 U.S.C. 3682(e)), August 19, 1950, as amended (33 U.S.C. 771-75), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles; $20,957,000, together with not to exceed $1,200,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of the Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978 (Public Law 95-454), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $4,673,000

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $17,576,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government Service, and compensation as authorized by 5 U.S.C 3109.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $27,500,000: *Provided*, That travel expenses of the judges shall be paid upon the written certificate of the judge.

This title may be cited as the "Independent Agencies Appropriations Act, 1988".

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the

amount set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans' Administration; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided,* That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided,* That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 507. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 508. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds is necessary to comply with a final order of the Federal court system.

SEC. 509. None of the funds appropriated or made available by this Act shall be used to competitively procure electric utility service, except where such procurement is expressly authorized by the Federal Power Act or by State law or regulation.

SEC. 510. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center of the General Services Administration located in Sacramento, California.

SEC. 511. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 512. None of the funds made available by this Act shall be available for any activity or for paying the salary of any government employee where funding an activity or paying a salary to a government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 513. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, out of the Treasury Department.

SEC. 514. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 515. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 516. Except for vehicles provided to the President, Vice President and their families, or to the United States Secret Service, none of the funds provided in this Act to any Department or Agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than twenty-two miles per gallon. The requirements of this section may be waived by the Administrator of the General Services Administration for special purpose or special mission automobiles.

SEC. 517. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverages for abortions.

SEC. 518. The provision of section 517 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 519. No later than October 1, 1989, the Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all funds authorized and appropriated before January 1, 1985 from the National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.

SEC. 520. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 521. None of the funds appropriated by this Act may be used to establish on a permanent basis any test or program of the "port of arrival immediate release and enforcement determination."

SEC. 522. None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

SEC. 523. None of the funds appropriated by this Act or any other Act in any fiscal year may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing, or disposal of any portion of land on which the Beltsville Agricultural Research Center is located at Beltsville, Maryland, without the specific approval of Congress: *Provided,* That such land may be sold, for fair market value, to the Washington Metropolitan Area Transit Authority and any proceeds from the sale of

such land shall be placed in an escrow account to be available hereafter for use in the renovation and restoration of the Beltsville Agricultural Research Center, to be released as specified in advance in appropriations Acts.

SEC. 524. Not later than October 1, 1988, of the amounts made available pursuant to Section 519 of the Treasury, Postal Service and General Government Appropriations Act, 1987, as incorporated in Section 101(m) of Public Laws 99-500 and 99-591, not less than $1,000,000 shall be obligated for a pilot project to upgrade technologically obsolete cobalt deposited in the National Defense Stockpile. The funds used in this section for upgrading shall not exceed $2,000,000.

SEC. 525. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing or disposal of any portion of land on which the Phoenix Indian School is located at Phoenix, Arizona without the specific approval of Congress.

SEC. 526. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas administered by the Corps of Engineers, Department of the Army without the specific approval of Congress.

SEC. 527. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, shall acquire, by means of a lease of up to 30 years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 528. Funds under this Act shall be available as authorized by sections 4501-4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1988.

SEC. 529. (a) Notwithstanding any other provision of law, during fiscal year 1988, the authority to establish higher rates of pay under section 5303 of title 5, United States Code, may—

(1) in addition to positions paid under any of the pay systems referred to in subsection (a) of section 5303 of title 5, U.S.C., be exercised with respect to positions paid under any other pay system established by or under Federal statute for positions within the executive branch of the Government; and

(2) in addition to the circumstance described in the first sentence of subsection (a) of section 5303 of title 5, U.S.C., be exercised based on—

(A) pay rates for the positions involved being generally less than the rates payable for similar positions held—

(i) by individuals outside the Government; or

(ii) by other individuals within the executive branch of the Government;

(B) the remoteness of the area or location involved;

(C) the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

(D) any other circumstance which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, U.S.C., for purposes of this subparagraph) may identify.

Nothing in paragraph (2) shall be considered to permit the exercise of any authority based on any of the circumstances under such paragraph without an appropriate finding that such circumstance is significantly handicapping the Government's recruitment or retention efforts.

(b)(1) A rate of pay established during fiscal year 1988 through the exercise of any additional authority under subsection (a) of section 5303 of title 5, U.S.C.—

(A) shall be subject to revision or adjustment,

(B) shall be subject to reduction or termination (including pay retention), and

(C) shall otherwise be treated,

in the same manner as generally applies with respect to any rate otherwise established under section 5303 of title 5, United States Code.

(2) The President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subsection) may prescribe any regulations necessary to carry out this subsection.

(c) Any additional authority under this section may, during fiscal year 1988, be exercised only to the extent that amounts otherwise appropriated under this Act for purposes of section 5303 of title 5, United States Code, are available.

SEC. 530. The Director of the Office of Management and Budget shall include in the area designated as the St. Louis Metropolitan Statistical Area, the City of Sullivan, Missouri.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,600 except station wagons for which the maximum shall be $7,600: *Provided*, That these limits may be exceeded by not to exceed $2,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further*, That the limits set forth in this section shall not apply to electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-24.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided*, That such credits received as exchanged allowances or proceeds of

sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 608. No part of any appropriation contained in this or any other Act, shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to (1) the General Services Administration, including the fund created by the Public Building Amendments of 1972 (86 Stat. 216), and (2) the "Postal Service Fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c): *Provided*, That when the Administrator of General Services delegates responsibility to protect property under his charge and control to the head of another Federal agency, that agency may employ guards to protect the property who shall have the same powers of special policemen in same manner as the foregoing.

SEC. 610. None of the funds available under this or any other Act shall be available for administrative expenses in connection with the designation for construction, arranging for financing, or execution of contracts or agreements for financing or construction of any additional purchase contract projects pursuant to section 5 of the Public Building Amendments of 1972 (Public Law 92-313) during the period beginning October 1, 1976, and ending September 30, 1988.

SEC. 611. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 612. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted.

SEC. 613. (a)(1) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1988, or September 30, 1989, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 613 of the Treasury, Postal Service, and General Government Appropriations Act, 1987, as incorporated in section 101(m) of Public Laws 99-500 and 99-591, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 613; and

(2) during the period consisting of the remainder, if any, of fiscal year 1988, and that portion of fiscal year 1989, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1989, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1988.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1987, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1987, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1987.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate or salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 614. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

SEC. 615. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to renovate, remodel, furnish, or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such renovation, remodeling, furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

SEC. 616. (a) If any individual or entity which provides or proposes to provide child care services for Federal employees during fiscal year 1988 or any fiscal year thereafter, applies to the officer or agency of the United States charged with the allotment of space in the Federal buildings in the community or district in which such individual or entity provides or proposes to provide such service, such officer or agency may allot space in such a building to such individual or entity if—

(1) such space is available;

(2) such officer or agency determines that such space will be used to provide child care services to a group of individuals of whom at least 50 percent are Federal employees; and

(3) such officer or agency determines that such individual or entity will give priority for available child care services in such space to Federal employees.

(b)(1) If an officer or agency allots space during fiscal year 1988 or any fiscal year thereafter, to an individual or entity under subsection (a), such space may be provided to such individual or entity without charge for rent or services.

(2) If there is an agreement for the payment of costs associated with the provision of space allotted under subsection (a) or services provided in connection with such space, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.

(3) For the purpose of this section, the term "services" includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems).

SEC. 617. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 618. (a) None of the funds appropriated by this Act, or any other Act in this or any fiscal year hereafter, may be used in preparing, promulgating, or implementing any regulations relating to the Combined Federal Campaign if such regulations are not in conformance with subsection (b).

(b)(1)(A) Any requirements for eligibility to receive contributions through the Combined Federal Campaign shall not, to the

extent that such requirements relate to litigation, public-policy advocacy, or attempting to influence legislation, be any more restrictive than any requirements established with respect to those subject matters under section 501(c)(3) or 501(h) of the Internal Revenue Code of 1986.

(B) Any requirements for eligibility to receive contributions through the Combined Federal Campaign shall, to the extent that such requirements relate to any subject matter other than one referred to in subparagraph (A), remain the same as the criteria in the 1984 regulations, except as otherwise provided in this section.

(C) Notwithstanding any requirement referred to in subparagraph (A) or (B), for purposes of any Combined Federal Campaign—

(i) any voluntary agency or federated group which was a named plaintiff as of September 1, 1987, in a case brought in the United States District Court for the District of Columbia, and designated as Civil Action No. 83-0928 or 86-1367, and

(ii) The Federal Employee Education and Assistance Fund,

shall be considered to have national eligibility.

(D) Public accountability standards shall remain similar to the standards which were by regulation established with respect to the 1984-1987 Combined Federal Campaigns, except that the Office of Personnel Management shall prescribe regulations under which a voluntary agency or federated group which does not exceed a certain size (as established under such regulations) may submit a copy of an appropriate Federal tax return, rather than complying with any independent auditing requirements which would otherwise apply.

(2)(A) A voluntary agency or federated group shall, for purposes of any Combined Federal Campaign in any year, be considered to have national eligibility if such agency or group—

(i) complies with all requirements for eligibility to receive contributions through the Combined Federal Campaign, without regard to any requirements relating to "local presence"; and

(ii) demonstrates that it provided services, benefits, or assistance, or otherwise conducted program activities, in—

(I) 15 or more different States over the 3-year period immediately preceding the start of the year involved; or

(II) several foreign countries or several parts of a foreign country.

For purposes of this subparagraph, an agency or federated group shall be considered to have conducted program activities in the required number of States, countries, or parts of a country, over the period of years involved, if such agency or group conducted program activities in such number of States, countries, or parts either in any single year during such period or in the aggregate over the course of such period, provided that no State, country, or part of a country is counted more than once.

(B) Notwithstanding any other provisions, eligibility requirements relating to International Services Agencies shall remain at least as inclusive as existing requirements. Any voluntary agency or federated group which attains national eligibility under subparagraph (A), and any voluntary agency which is a member of the International Services Agencies, shall be considered to have satisfied any requirements relating to "local presence".

(3)(A) If a federated group is eligible to receive donations in a Combined Federal Campaign, whether on a national level (pursuant to certification by the Office) or a local level (pursuant to certification by the local Federal coordinating committee), each voluntary agency which is a member of such group may, upon certification by the federated group, be considered eligible to participate on such national or local level, as the case may be.

(B) Notwithstanding any provision of subparagraph (A)—

(i) the Office may require a voluntary agency to provide information to support any certification submitted by a federated group with respect to such agency under subparagraph (A); and

(ii) if a determination is made, in writing after notice and opportunity to submit written comments, that the information submitted by the voluntary agency does not satisfy the applicable eligibility requirements, such agency may be barred from participating in the Combined Federal Campaign on a national or local level, as the case may be, for a period not to exceed 1 campaign year.

(4) The Office shall exercise oversight responsibility to ensure that—

(A) regulations are uniformly and equitably implemented in all local combined Federal campaigns;

(B) federated groups participating in a local combined Federal campaign are allowed to compete fairly for the role of principal combined fund organization;

(C) federated groups participating in a local combined Federal campaign are afforded—

(i) adequate opportunity to consult with the PCFO for the area involved before any plans are made final relating to the design or conduct of such campaign (including plans pertaining to any materials to be printed as part of the campaign);

(ii) adequate opportunity to participate in campaign events and other related activities; and

(iii) timely access to all reports, budgets, audits, and other records in the possession of, or under the control of, the PCFO for the areas involved; and

(D) a federated group or voluntary agency found by the Office, by a written decision issued after notice and opportunity to submit written comments, to have violated the regulations may be barred from serving as a PCFO for not to exceed 1 campaign year.

(5) The Office shall prescribe regulations to ensure that PCFOs do not make inappropriate delegations of decisionmaking authority.

(6)(A) The Office shall, in consultation with federated groups, establish a formula under which any undesignated contributions received in a local combined Federal campaign shall be allocated in any year.

(B) Under the formula for the 1990 Combined Federal Campaign, all undesignated contributions received in a local campaign shall be allocated as follows:

(i) 82 percent shall be allocated to the United Way.

(ii) 7 percent shall be allocated to the International Services Agencies.

(iii) 7 percent shall be allocated to the National Voluntary Health Agencies.

(iv) 4 percent shall, after fair and careful consideration of all eligible federated groups and agencies, be allocated by the local Federal coordinating committee among any or all of the following:

(I) National federated groups (other than any identified in clauses (i), (ii), or (iii)), except that a national federated group shall not be eligible under this subclause unless there are at least 15 members of such group participating in the local campaign, unless the members of such group collectively receive at least 4 percent of the designated contributions in the local campaign, and unless such group was granted national eligibility status for the 1987, 1988, 1989, or 1990 Combined Federal Campaign.

(II) Local federated groups.

(III) Any local, non-affiliated voluntary agency which receives at least 4 percent of the designated contributions in the local campaign.

(C) The formula set forth in subparagraph (B)—

(i) shall be phased in over the course of the 1988 and 1989 Combined Federal Campaigns;

(ii) shall be fully implemented with respect to the 1990 Combined Federal Campaigns; and

(iii) shall, with respect to any Combined Federal Campaign thereafter, be adjusted based on the experience gained in the Combined Federal Campaigns referred to in clauses (i) and (ii).

(D) Nothing in this paragraph shall apply with respect to any campaign conducted in a foreign country.

(E) All appropriate steps shall be taken to encourage donors to make designated contributions.

(7) The option for a donor to write in the name of a voluntary agency or federated group not listed in the campaign brochure to receive that individual's contribution in a local campaign shall be eliminated.

(8) The name of any individual making a designated contribution in a campaign shall, upon request of the recipient voluntary agency or federated group, be released to such agency or group, unless the contributor indicates that his or her name is not to be released. Under no circumstance may the names of contributors be sold or otherwise released by such agency or group.

(9)(A) The name of each participating voluntary agency and federated group, together with a brief description of their respective programs, shall be published in any information leaflet distributed to employees in a local combined Federal campaign. Agencies shall be arranged by federated group, with combined Federal campaign organization code numbers corresponding to each such agency and group.

[27](B) The requirement under subparagraph (A) relating to the inclusion of program descriptions may, at the discretion of a local Federal coordinating committee, be waived for a local campaign in any year if, in the immediately preceding campaign year, contributions received through the local campaign totalled less than $100,000.

(10) Employee coercion is not to be tolerated in the Combined Federal Campaign, and protections against employee coercion shall be strengthened and clarified.

(11) The Office—

(A) may not, after the date of the enactment of this Act, grant national eligibility status to any federated group unless such group has at least 15 member voluntary agencies, each of which meets the requirements for national eligibility under paragraph (2)(A); and

(B) may withdraw federation status from any federated group for a period of not to exceed 1 campaign year if it is determined,

[27] Copy read "(8)".

on the record after opportunity for a hearing, that the federated group has not complied with the regulatory requirements.

(12) The Office may bar from participation in the Combined Federal Campaign, for a period not to exceed 1 campaign year, any voluntary agency which the Office determines, in writing, and after notice and opportunity to submit written comments, did not comply with a reasonable request by the Office to furnish it with information relating to such agency's campaign accounting and auditing practices.

(c) For purposes of this section, a voluntary agency or federated group having "national eligibility" is one which is eligible to participate in each local domestic combined Federal campaign.

INDUSTRIAL FUNDING OF THE GENERAL SUPPLY FUND

SEC. 619. Industrial Funding.

[28](a) PERMISSIBLE USES OF GENERAL SUPPLY FUND.—The last sentence of section 109(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756(a)) is amended—

(1) by striking out "and" at the end of clause (1); and

(2) by inserting before the period at the end of clause (2) the following: ", and (3) for paying other direct costs of, and indirect costs that are reasonably related to, contracting, procurement, inspection, storage, management, distribution, and accountability of property and nonpersonal services provided by the General Services Administration or by special order through such Administration".

[29](b) COLLECTION OF PAYMENTS FOR DEPOSIT IN FUND.—Section 109(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756(b)) is amended by inserting after the second sentence the following new sentence: "Such prices shall also include an additional charge to recover properly allocable costs payable by the General Supply Fund under subsection (a)(3) with respect to the supplies or services concerned.".

[30](c) IMPLEMENTATION PLAN.—Not later than February 15, 1988, the Administrator of General Services shall submit to the appropriate committees of the Congress a plan for the implementation of the amendments made by this Act. Such plan shall (1) fully describe and explain the accounting system (including the pricing and cost allocation methodology for supplies and services) to be used for such implementation, and (2) contain a schedule for completing actions necessary for such implementation.

[31](d) EFFECTIVE DATE.—The amendments made by this Act shall take effect not later than April 1, 1988.

SEC. 620. Section 1202(b) of title 5, United States Code, is amended by adding a new sentence as follows: "Any new member serving only a portion of a seven-year term in office may continue to serve until a successor is appointed and has qualified, except that such member may not continue to serve for more than one year after the date on which the term of the member would otherwise expire, unless reappointed.".

SEC. 621. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code shall not apply) and includes the White House Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

SEC. 622. (a) None of the funds made available by this or any other Act with respect to any fiscal year may be used to make a contract for the manufacture of distinctive paper for United States currency and securities pursuant to section 5114 of title 31, United States Code, with any corporation or other entity owned or controlled by persons not citizens of the United States, or for the manufacture of such distinctive paper outside of the United States or its possessions. This subsection shall not apply if the Secretary of the Treasury determines that no domestic manufacturer of distinctive paper for United States currency or securities exists with which to make a contract and if the Secretary of the Treasury publishes in the Federal Register a written finding stating the basis for the determination.

(b) None of the funds made available by this or any other Act with respect to any fiscal year may be used to procure paper for passports granted or issued pursuant to the first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a), if such paper is manufactured outside of the United States or its possessions or is procured from any corporation or other entity owned or controlled by persons not citizens of the United States. This subsection shall not apply if no domestic manufacturer for passport paper exists.

SEC. 623. INTEREST ON BACK PAY FOR FEDERAL EMPLOYEES.—(a) IN GENERAL.—Section 5596(b) of title 5, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following:

"(2)(A) An amount payable under paragraph (1)(A)(i) of this subsection shall be payable with interest.

"(B) Such interest—

"(i) shall be computed for the period beginning on the effective date of the withdrawal or reduction involved and ending on a date not more than 30 days before the date on which payment is made;

"(ii) shall be computed at the rate or rates in effect under section 6621(a)(1) of the Internal Revenue Code of 1986 during the period described in clause (i); and

"(iii) shall be compounded daily.

"(C) Interest under this paragraph shall be paid out of amounts available for payments under paragraph (1) of this subsection.".

(b) EFFECTIVE DATE.—

(1) GENERALLY.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to any employee found, in a final judgment entered or a final decision otherwise rendered on or after such date, to have been the subject of an unjustified or unwarranted personnel action, the correction of which entitles such employee to an amount under section 5596(b)(1)(A)(i) of title 5, United States Code.

(2) EXCEPTION.—

(A) CASES IN WHICH A RIGHT TO INTEREST WAS RESERVED.—The amendments made by subsection (a) shall also apply with respect to any claim which was brought under section 5596 of title 5, United States Code, and with respect to which a final judgment was entered or a final decision was otherwise rendered before the date of the enactment of this Act, if, under terms of such judgment or decision, a right to interest was specifically reserved, contingent on the enactment of a statute authorizing the payment of interest on claims brought under such section 5596.

(B) METHOD OF COMPUTING INTEREST.—The amount of interest payable under this paragraph with respect to a claim shall be determined in accordance with section 5596(b)(2)(B) of title 5, United States Code (as amended by this section).

(C) SOURCE.—An amount payable under this paragraph shall be paid from the appropriation made by section 1304 of title 31, United States Code, notwithstanding section 5596(b)(2)(C) of title 5, United States Code (as amended by this section) or any other provision of law.

(D) DEADLINE.—An application for a payment under this paragraph shall be ineffective if it is filed after the end of the 1-year period beginning on the date of the enactment of this Act.

(E) LIMITATION ON PAYMENTS.—Payments under this paragraph may not be made before October 1, 1988, except that interest shall continue to accrue in accordance with 5596(b)(2)(B) of title 5, United States Code.

SEC. 624. (a) Section 7701(j) of title 26, United States Code, is amended—

(1) by deleting from paragraph (1)(c) the words "the provisions of paragraph (2) and" following the words "subject to"; and

(2) by deleting paragraph (2) in its entirety and substituting in lieu thereof the following language: "NONDISCRIMINATION REQUIREMENTS.—Notwithstanding any other provision of law, the Thrift Savings Fund is

[28] Copy read "SUB SECTION 1.".
[29] Copy read "SUB SECTION 2.".
[30] Copy read "SUB SECTION 3.".
[31] Copy read "SUB SECTION 4.".

not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) or to matching contributions (as described in section 401(m)), so long as it meets the requirements of this section.".

(b) Section 8440 of title 5, United States Code, is amended—

(1) by deleting from paragraph (a)(3) the words "the provisions of subsection (b) and" following the words "subject to"; and

(2) by deleting subsection (b) in its entirety and by substituting in lieu thereof the following language: "NONDISCRIMINATION REQUIREMENTS.—Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) of title 26, United States Code, or to matching contributions (as described in section 401(m) of title 26, United States Code), so long as it meets the requirements of this section.".

SEC. 625. TEMPORARY AUTHORITY TO TRANSFER LEAVE.—In order to ensure that the experimental use of voluntary leave transfers established under Public Laws 99-500 and 99-591 may continue and may cover additional employees in fiscal year 1988, the Office of Personnel Management shall establish by regulation, notwithstanding chapter 63 of title 5, United States Code, a program under which the unused accrued annual leave of officers or employees of the Federal Government may be transferred for use by other officers or employees who need such leave due to a personal emergency as defined in the regulations. The Veterans' Administration shall establish a similar program for employees subject to section 4108 of title 5, United States Code. The programs established by this section shall expire at the end of fiscal year 1988, but any leave that has been transferred to an officer or employee under the programs shall remain available for use until the personal emergency has ended, and any remaining unused transferred leave shall, to the extent administratively feasible, be restored to the leave accounts of the officers or employees from whose accounts it was originally transferred.

SEC. 626. Subsection 8902 of title 5, United States Code, is amended—

(1) by inserting in subsection (k)(1), after "as applicable," the following: "or by a qualified clinical social worker as defined in section 8901(11),";

(2) by inserting in subsection (k)(1), after "such a clinical psychologist" the following: ", qualified clinical social worker";

(3) by striking out all of subsection (k)(2) and by redesignating subsection (k)(3) as subsection (k)(2); and

(4) by striking out the last sentence in subsection (m)(2)(A).

SEC. 627. (a) Section 5 of Public Law 99-87, relating to the use of official mail in the location of missing children, is amended by striking out "two and one-half years after the date of the enactment of this Act" and inserting in lieu thereof "after December 31, 1992".

(b) Section 3(a) of Public Law 99-87 is amended by striking out "Not later than two years after the date of enactment of this Act," and inserting in lieu thereof "Not later than June 30, 1992,".

SEC. 628. SALE OF RESIDENCE OF TRANSFERRED FEDERAL EMPLOYEES AND TRANSPORTATION EXPENSES.—

(a) REIMBURSEMENT OF EXPENSES OF SALE AND PURCHASE OF A RESIDENCE UPON THE TRANSFER OF A FEDERAL EMPLOYEE.—

(1) REIMBURSEMENT OF EXPENSES.—Section 5724a(a)(4)(A) of title 5, United States Code, is amended—

(A) by inserting before the period at the end of the first sentence the following: "; and expenses, required to be paid by the employee, (i) of the sale of the residence (or the settlement of an unexpired lease) of the employee at the official station from which the employee was transferred when he was assigned to a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979) and (ii) of the purchase of a residence at the new official station when the employee is transferred in the interest of the Government from a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), to an official station (other than the official station from which he was transferred when assigned to the foreign tour of duty) within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or such areas and installations in the Republic of Panama"; and

(B) by adding at the end thereof the following new sentence: "Reimbursement of expenses prescribed under this paragraph in connection with transfers from a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), shall not be allowed for any sale or settlement of unexpired lease or purchase transaction that occurs prior to official notification that the employee's return to the United States would be to an official station other than the official station from which the employee was transferred when assigned to the foreign post of duty.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (2) shall be applicable with respect to any employee transferred to or from a post of duty on or after 60 days after the date of enactment of this section.

(b) FUNDS FOR IMPLEMENTATION.—The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsections do not authorize the appropriation of funds in amounts exceeding the sums already authorized to be appropriated for such agencies.

SEC. 629. Notwithstanding 31 U.S.C. 1346 or section 607 of this Act, funds made available for fiscal year 1988 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided in Executive order Number 12472 (April 3, 1984).

EMPLOYEE DISCLOSURE AGREEMENTS

SEC. 630. No funds appropriated in this or any other Act for fiscal year 1988 may be used to implement or enforce the agreements in Standard Forms 189 and 4193 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement:

(1) concerns information other than that specifically marked as classified; or, unmarked but known by the employee to be classified; or, unclassified but known by the employee to be in the process of a classification determination;

(2) contains the term "classifiable" [32];

(3) directly or indirectly obstructs, by requirement of prior written authorization, limitation of authorized disclosure, or otherwise, the right of any individual to petition or communicate with Members of Congress in a secure manner as provided by the rules and procedures of the Congress;

(4) interferes with the right of the Congress to obtain executive branch information in a secure manner as provided by the rules and procedures of the Congress;

(5) imposes any obligations or invokes any remedies inconsistent with statutory law: *Provided*, That nothing in this section shall affect the enforcement of those aspects of such nondisclosure policy, form or agreement that do not fall within subsections (1)-(5) of this section.

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1988".

(n)(1) Upon the enactment of this resolution enrolled as a hand enrollment, the Clerk of the House of Representatives shall prepare a printed enrollment of this resolution as in the case of a bill or joint resolution to which sections 106 and 107 of title 1, United States Code, apply. Such enrollment shall be a correct enrollment of this resolution as enrolled in the hand enrollment.

(2) A printed enrollment prepared pursuant to subsection (n)(1) may, in order to conform to customary style for printed laws, include corrections in spelling, punctuation, indentation, type face, and type size and other necessary stylistic corrections to the hand enrollment. Such a printed enrollment shall include notations (in the margins or as otherwise appropriate) of all such corrections.

(3) A printed enrollment prepared pursuant to subsection (n)(1) shall be signed by the presiding officers of both Houses of Congress as a correct printing of the hand enrollment of this resolution and shall be transmitted to the President.

(4) Upon certification by the President that a printed enrollment transmitted pursuant to subsection (n)(3) is a correct printing of the hand enrollment of this resolution, such printed enrollment shall be considered for all purposes as the original enrollment of this resolution and as valid evidence of the enactment of this resolution.

(5) A printed enrollment certified by the President under subsection (n)(4) shall be transmitted to the Archivist of the United States, who shall preserve it with the hand enrollment. In preparing this resolution for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (n)(4) in lieu of the hand enrollment.

(6) As used in this section, the term "hand enrollment" means enrollment in a form other than the printed form required by

[32] Copy read " 'classifiable' ".

sections 106 and 107 of title 1, United States Code, as authorized by the joint resolution entitled "Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988", approved December 1987 (H.J. Res. 426 of the 100th Congress).

(o) Federal employees furloughed as the result of any lapse in appropriations prior to the enactment of this Resolution shall be compensated at their standard rate of compensation for the period during which there was a lapse in appropriations.

All obligations incurred in anticipation of the appropriations made and authority granted by this Resolution for the purpose of maintaining the essential level of activity to protect life and property and bring about the orderly termination of Government functions are hereby ratified and approved if otherwise in accord with the provisions of this Resolution.

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from December 21, 1987, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) September 30, 1988, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization (including a continuing appropriation for the full year) whenever a bill in which such applicable appropriation, fund, or authorization (including a continuing appropriation for the full year) is contained is enacted into law.

SEC. 105. Section 1515 of title 31 of the United States Code is amended by striking subsection (a) and inserting in lieu thereof the following:

"(a) An appropriation required to be apportioned under section 1512 of this title may be apportioned on a basis that indicates the need for a deficiency or supplemental appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees (including prevailing rate employees whose pay is fixed and adjusted under subchapter IV of chapter 53 of title 5) and to retired and active military personnel.".

SEC. 106. The provisions of appropriations Acts within the purview of this joint resolution, and the provisions of appropriations Acts within the purview of the following joint resolutions making continuing appropriations (section 101(c) of Public Law 96-86 (93 Stat. 657), section 101(f) of Public Law 98-151 (97 Stat. 973), section 101(b) of Public Law 98-473 (98 Stat. 1837), section 101 (a) and (c) of Public Law 99-190 (99 Stat. 1185, 1224), and section 101 (g), (i), and (l) of Public Laws 99-500 and 99-591 (100 Stat. 1783-242, 1783-287, 1783-308, 3341-242, 3341-287, 3341-308)), shall (to the extent and in the manner specified in the pertinent section of any such joint resolution) be effective as if enacted into law. Those provisions are effective on the date of enactment of the pertinent joint resolution except to the extent a different effective date is specified in the joint resolution or pertinent appropriations Act.

SEC. 107. Amounts and authorities provided by this resolution shall be in accordance with the reports accompanying the bills as passed by or reported to the House and the Senate and in the Joint Explanatory Statement of the Conference accompanying this Joint Resolution.

SEC. 108. (a) Notwithstanding any other provision of this resolution or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1987, and before October 1, 1988, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

(1) if the rate of salary or basic pay payable for that office or position as of September 30, 1987, was equal to or greater than the rate of basic pay then payable for level V of the Executive Schedule under section 5316 of title 5, United States Code; or

(2) to a rate exceeding the rate of basic pay payable for level V of the Executive Schedule under such section 5316 as of September 30, 1987, if, as of that date, the rate of salary or basic pay payable for that office or position was less than the rate of basic pay then payable for such level V.

(b) For purposes of subsection (a), the rate of salary or basic pay payable as of September 30, 1987, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(2) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

SEC. 109. (a)(1) None of the funds appropriated for fiscal year 1988 by this resolution or any other law may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary in the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

(b)(1) Not later than 30 days after the date of enactment of this resolution, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Such list shall include—

(A) each foreign country with respect to which an affirmative determination is made under subsection (b); and

(B) the country of Japan and any other country which has expressed a policy of denying fair and equitable market opportunities for products and services of the United States in procurement or bidding for projects described in paragraph (1) of this subsection.

(3) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the President or the United States Trade Representative evidence demonstrating that such barriers have been removed; and

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

(4) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made after publication of the original list.

(d) For purposes of this section—

(1) each foreign instrumentality, and each territory or possession of a foreign country that is administered separately for customs

purposes, shall be treated as a separate foreign country;

(2) any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country;

(3) subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country;

(4) the restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country; and

(5) the terms "contractor" and "subcontractor" include any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this resolution.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

SEC. 110 (a) ADJUSTMENTS FOR EMPLOYEES UNDER STATUTORY PAY SYSTEMS.—

(1) TWO-PERCENT INCREASE.—Notwithstanding any other provision of law, in the case of fiscal year 1988, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 2 percent.

(2) UNIFORM ADJUSTMENTS; DELAYED EFFECTIVE DATE.—Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage and shall take effect as of the beginning of the first applicable pay period beginning on or after January 1, 1988.

(b) TWO PERCENT MILITARY PAY RAISE FOR FISCAL YEAR 1988.—Section 601 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) is amended by striking out subsections (b), (c), and (d) and inserting in lieu thereof the following:

"(b) TWO PERCENT INCREASE IN BASIC PAY, BAQ, AND BAS.—The rates of basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are increased by 2 percent effective on January 1, 1988.

"(c) TWO PERCENT INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective on January 1, 1988, section 203(c)(1) of title 37, United States Code, is amended by striking out '$494.40' and inserting in lieu thereof '$504.30'.".

ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 111. (a) There are hereby transfered to the President $3,600,000 of unobligated funds, from such accounts for which appropriations were made by Department of Defense appropriations Acts for the fiscal year 1987 or prior years, as the President shall designate, to provide humanitarian assistance to the Nicaraguan democratic resistance consistent with this section, to remain available through February 29, 1988.

(b)(1) The President is authorized to transfer or reprogram $4,500,000 of unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations Acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provided transportation of humanitarian and other assistance previously, specifically authorized by law to the Nicaraguan domestic resistance, to remain available through February 29, 1988.

(2)(A) Transportation under paragraph (1) for lethal assistance previously authorized by law shall be suspended on January 12, 1988 and shall resume thereafter only if, after January 18, 1988, the President determines and certifies to the Congress that—

(i) at the time of such certification no ceasefire is in place that was agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance;

(ii) the failure to achieve the ceasefire described in subparagraph (A)(i) results from the lack of good faith efforts by the Government of Nicaragua to achieve such a ceasefire; and

(iii) the Nicaraguan democratic resistance has engaged in good faith efforts to achieve the ceasefire described in subparagraph (A)(i).

(B) Transportation under paragraph (1) for lethal assistance previously authorized by law shall be suspended during any period in which there is in place a ceasefire described in subparagraph (A)(i), except to the extent, if any, permitted by the agreement governing such ceasefire.

(c)(1) The Department of Defense shall, through February 29, 1988, make available to the department or agency administering this section passive air defense equipment to ensure the safety of transportation provided pursuant to this section.

(2) The Department of Defense shall not charge the department or agency receiving equipment under paragraph (1) for such equipment, and shall bear the risk of loss, damage or deterioration of such equipment during the period of its use under the authority of paragraph (1).

(d)(1) The President is authorized to transfer unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations Acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, solely for the indemnification through February 29, 1988, of aircraft leased after the date of enactment of this joint resolution to carry out subsection (b).

(2) On March 1, 1988, the President shall transfer the balance, if any, remaining of funds transferred under paragraph (1) to the accounts from which such funds were transferred under paragraph (1).

(e) As used in this section, the term "humanitarian assistance" means only food, clothing, shelter, medical services, medical supplies, and payment for such items.

(f) The requirements, terms and conditions of section 104 of the Intelligence Authorization Act, fiscal year 1988 (Public Law 100-178), section 8144 of the Department of Defense Appropriations Act, 1988 as contained in section 101(b) of this joint resolution, section 10 of Public Law 91-672, section 502 of the National Security Act of 1947, section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use consistent with this section of the funds made available by subsections (a), (b), and (d), and the transfer and use of equipment as provided in subsection (c).

(g) The authority to support, monitor, and manage the activities for which this section provides funds shall continue until February 29, 1988.

(h) Sections 203(e), 204(b), 207, 209(b), 209(c), and 216, and the first sentence of section 203(d), in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591) shall apply with respect to funds made available by this section.

(i) If, on January 17, 1988, a cease-fire agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance is in place and the Government of Nicaragua is in compliance with the Guatemala peace accord of August 7, 1987, then the President shall, to the maximum extent practicable, make the unobligated balance of funds transferred by subsection (a) available for administration consistent with this section by nonpolitical humanitarian international organizations.

(j)(1) The President may submit to Congress, no earlier than January 25, 1988, and no later than January 27, 1988, a request in accordance with this section for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance.

(2) Only if a joint resolution approving a request made pursuant to subsection (j)(1) has been enacted into law, the President may submit to Congress one additional request under this section for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance.

(3) It is the sense of Congress that any request in accordance with this section should be compatible with the Guatemala peace accord of August 7, 1987, and the decisions reached by the Central American presidents at the meeting on the report of the International Commission of Verification and Followup, and consistent with the national security interests of the United States.

(4) Each request of the President in accordance with this section shall include a detailed statement of the steps that the United States, the Central American nations, and other interested parties have taken in support of the Guatemala peace accord of August 7, 1987, and of any ceasefire agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance, as well as a report on any progress made in any bilateral or multilateral talks between the United States and the Government of Nicaragua.

(5) If a request of the President in accordance with this section proposes the transfer of funds, the request shall specify the accounts from which the funds are proposed to be transferred.

(6) For purposes of this section, the term "joint resolution" means only a joint resolution introduced within one day of session after the day of session on which the Congress receives the request submitted by the President pursuant to paragraphs (1) or (2)—

(A) the matter after the resolving clause of which is as follows: "That the Congress hereby approves the additional authority and assistance for the Nicaraguan democratic resistance that the President requested pursuant to H.J. Res. 395 of the 100th Congress, the Act making continuing appropriations for fiscal year 1988.";

(B) which does not have a preamble; and

(C) the title of which is as follows: "Joint resolution relating to Central America pursuant to H.J. Res. 395 of the 100th Congress.".

(7) Any such joint resolution shall, upon introduction, be referred in the House of Representatives to the appropriate committee or committees.

(8) If all of the committees of the House of Representatives to which the first joint resolution approving a request made pursuant to subsection (j)(1) has been referred have not reported such joint resolution by the end of February 1, 1988, any committee which has not reported such joint resolution shall be discharged from further consideration thereof on February 2, 1988, and such joint resolution shall be placed on the appropriate calendar of the House.

(9) If all of the committees of the House of Representatives to which the first joint resolution approving a request made pursuant to subsection (j)(2) has been referred have not reported such joint resolution by the end of ten days of session after such joint resolution was introduced, any committee which has not reported such joint resolution shall be discharged from further consideration thereof and such joint resolution shall be placed on the appropriate calendar of the House.

(10) On February 3, 1988, it is in order for any Member of the House of Representatives (after consultation with the Speaker as to the most appropriate time for consideration) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution approving a request made pursuant to subsection (j)(1).

(11) It is in order for any Member of the House of Representatives (after consultation with the Speaker as to the most appropriate time for consideration) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution approving a request made pursuant to subsection (j)(2) at any time after such joint resolution has been on the calendar for a period of five days of session, except that it shall not be in order to consider such joint resolution prior to July 1, 1988.

(12) In the House of Representatives, the vote on final passage of the joint resolution approving a request made pursuant to subsection (j)(1) shall occur no later than February 3, 1988, and the vote on final passage of the joint resolution approving a request made pursuant to subsection (j)(2) shall occur no later than September 30, 1988.

(k)(1) The motion that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of a joint resolution in accordance with this section is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution and against its consideration are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of.

(2) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(3) An amendment to the joint resolution is not in order.

(4) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(l)(1) A joint resolution described in subsection (j)(6) introduced in the Senate shall be referred to the appropriate committee of the Senate.

(2) If the committee to which is referred a joint resolution described in subsection (j)(6) has not reported such a resolution at the end of February 2, 1988, in the case of a resolution approving a request made pursuant to subsection (j)(1), hereinafter referred to as the first resolution, and at the end of 15 days of session after the introduction of a resolution approving a request made pursuant to subsection (j)(2), hereinafter referred to as the second resolution, such committee shall be discharged from further consideration of any such joint resolution. The second such resolution may not be reported before the eighth day of session after its introduction.

(3)(A) When the committee to which a resolution is referred has reported, or has been discharged (under paragraph (2)) from further consideration of, a resolution described in subsection (j)(6), notwithstanding any rule or precedent of the Senate, including rule 22, it is in order only on February 4, 1988, in the case of the first, and any time in July, August, or September 1988, in the case of the second (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is not debatable. The motion is not subject to a motion to postpone. A yea and nay vote shall occur on the motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the Senate until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between the majority and the minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of debate on a resolution described in subsection (j)(6), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution described in subsection (j)(6) shall be decided without debate.

(E) The vote on passage of the first such joint resolution in the Senate shall occur no later than 10 p.m., February 4, 1988, and on the second such joint resolution not before July 1, 1988, and no later than 10 p.m., September 30, 1988.

(4) If, before the passage by the Senate of a resolution of the Senate described in subsection (j)(6), the Senate receives from the House of Representatives a resolution described in subsection (j)(6), then the following procedures shall apply:

(A) The resolution of the House of Representatives shall not be referred to a committee.

(B) With respect to a resolution described in subsection (j)(6) in the Senate—

(i) the procedure in the Senate shall be the same as if no resolution had been received from the House; but

(ii) the vote on passage shall be on the resolution of the House.

(C) Upon disposition of the resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

(5) If the Senate receives from the House of Representatives a resolution described in subsection (j)(6) after the Senate has disposed of a Senate originated resolution, the action of the Senate with regard to the disposition of the Senate originated resolution shall be deemed to be the action of the Senate with regard to the House originated resolution.

(m)(1) Section 215 in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591), and subsections (p), (s), and (t) of section 722 of the International Security and Development Cooperation Act of 1985 are hereby repealed, and the provisions of section 8066 of the Department of Defense Appropriations Act, 1985, as contained in Public Law 98-473, shall not apply to any request for assistance to the Nicaraguan democratic resistance.

(2) Subsections (j)-(l) are enacted—

(A) as an exercise in the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under this section, and they supercede other rules only to the extent that they are inconsistent with such rules; and

(B) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

(3) As used in this subsection, the term "day of session" means a day on which the respective House is in session.

SEC. 136. (a) Paragraph (37) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)) is amended by adding at the end thereof the following new subparagraph:

"(F)(i) For purposes of this title a qualified football coaches plan—

"(I) shall be treated as a multiemployer plan to the extent not inconsistent with the purposes of this subparagraph; and

"(II) notwithstanding section 401(k)(4)(B) of such Code, may include a qualified cash and deferred arrangement.

"(ii) For purposes of this subparagraph, the term 'qualified football coaches plan' means any defined contribution plan which is established and maintained by an organization—

"(I) which is described in section 501(c);

"(II) the membership of which consists entirely of individuals who primarily coach football as full-time employees of 4-year colleges or universities described in section 170(b)(1)(A)(ii); and

"(III) which was in existence on September 18, 1986."

(b) The amendment made by this section shall apply to years beginning after the date of the enactment of this joint resolution.

SEC. 137. (a) The amounts made available for Star Schools under section 101(h) of this joint resolution shall be available for carrying out the provisions of title IX of the Education for Economic Security Act, relating to Star Schools, as contained in section 6005 of the Senate amendment to H.R. 5.

(b) The amounts made available for the workplace literacy program under section 101(h) of this joint resolution shall be for carrying out the provisions of section 317 of the Adult Education Act, as contained in the Senate amendment to H.R. 5.

(c) The amounts made available for dropout prevention under section 101(h) of this joint resolution shall be available for part A and part C of title VIII of the Senate amendment to H.R. 5: *Provided,* That (1) the first category of local educational agencies for allotment under part A shall include such agencies with a total enrollment of 100,000 or more students and 25 percent of the amount appropriated shall be allotted for such category, (2) the second such category shall be agencies having a total enrollment of 20,000 but less than 100,000 and 40 percent of the amount appropriated shall be allotted to the second category, and (3) the third such category of agencies shall be allotted 30 percent of the amount appropriated.

SEC. 138. (a)(1) For the purposes of making adjustments under section 619(a)(2)(E) of the Education of the Handicapped Act for fiscal year 1987, the number of handicapped children aged 3 to 5, inclusive receiving special education and related services for purposes of section 619(a)(2)(A)(ii)(II) of such Act shall be equal to the number of such children receiving special education and related services on December 1, 1987, or, if the State educational agency so chooses, the number of such children on March 1, 1988.

(2) In complying with paragraph (1), the Secretary of Education may not use the March 1 count for the purpose of this subsection unless it is received by the Secretary not later than April 15, 1988.

(3) For the purpose of this subsection, only children aged three to five, inclusive, as of December 1, 1987, may be included in the March 1, 1988, count.

(b) The provisions of subsection (a) shall be effective as if enacted on October 8, 1986.

SEC. 139. There is authorized $10,000,000 to establish the Warren G. Magnuson Foundation and Margaret Chase Smith Foundation Assistance Act.

SEC. 140. (a) In recognition of the public service of Senator Warren G. Magnuson, the Secretary of Education shall make grants, in accordance with the provisions of this joint resolution, to the Warren G. Magnuson Foundation for use in the development and activities of the Warren G. Magnuson Health Services Center at the University of Washington at Seattle, Washington, and for other health and education related activities of the Foundation.

(b) In recognition of the public service of Senator Margaret Chase Smith, the Secretary of Education shall make grants, in accordance with the provisions of this joint resolution to the Margaret Chase Smith Foundation for use in the development and activities of the Margaret Chase Smith Library Center, located in Skowhegan, Maine.

(c) No payment may be made under this joint resolution unless an application is made to the Secretary of Education at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may require.

SEC. 141. (a) There are authorized to be appropriated such sums, not to exceed $5,000,000 as may be necessary to carry out the provisions of section 140(a) of this joint resolution.

(b) There are authorized to be appropriated such sums, not to exceed $5,000,000 as may be necessary to carry out the provisions of section 140(b) of this joint resolution.

(c) Funds appropriated under this joint resolution shall remain available until expended.

SEC. 144. The Committee on Rules and Administration of the Senate may provide for the distribution of unused food from the Senate cafeterias under the jurisdiction of the committee to the needy of the District of Columbia through an appropriate private distribution organization selected by the committee.

SEC. 156. (a) The Secretary of Labor is authorized to make available from funding provided by this joint resolution and authorized by title IV, part B of the Job Training Partnership Act such funds as are necessary to match a Federal Aviation Administration grant to the city of San Marcos, Texas, for the functional replacement of buildings and other facilities at the Gary Job Corps Center, San Marcos, Texas: *Provided,* That funding made available by this joint resolution for this purpose shall not exceed $372,000. Such funds are necessary to facilitate the transfer of 37 acres, more or less, at the Gary Job Corps Center to the city of San Marcos, pursuant to section 516 of the Airport and Airway Improvement Act of 1982, as amended (by pending legislation: H.R. 2310/S. 1184, awaiting conference), for development of the San Marcos Municipal Airport.

(b) Notwithstanding any other provision of law, the Secretary of Transportation is authorized, pursuant to section 505(a) of the Airport and Airway Improvement Act of 1982, as amended (by pending legislation), to issue a grant to the city of San Marcos, Texas, for the functional replacement of buildings and other improvements at the Gary Job Corps Center, San Marcos, Texas; such functional replacement shall be considered as airport development as defined in section 503(a)(2) of said Act; further, costs for such functional replacement shall be allowable costs, notwithstanding any provision of section 513(c) of said Act; funds authorized in subsection (a) of this section may be used to provide the needed matching share of the cost of such functional relocation, notwithstanding any provision of section 510 of said Act.

(c) For the purpose of this section, no Federal funds used for such functional replacement shall be considered as an expense to the United States as that term is used in section 516 of the Airport and Airway Improvement Act of 1982, as amended (by pending legislation).

(d) The 37 acres referenced in subsection (a) of this section are defined as follows: a tract of land being that part of the Job Corps site located south of and adjacent to the aircraft apron of the San Marcos Airport, Caldwell County, Texas. This tract is more particularly described in the following paragraphs:

beginning at that northwest corner of the Job Corps site which is located near the south edge of the aircraft apron, and is approximately 100 feet northeasterly of the old control tower;

thence east along the north boundary of the Job Corps site an approximate distance of 1850 feet to a point in the aircraft apron;

thence northeasterly along a line perpendicular to the center line of runway 12-30 an approximate distance of 150 feet to a point which is approximately 750 feet from the said center line;

thence southeasterly along a line in the aircraft apron and parallel to the said center line an approximate distance of 1,500 feet to a point near the southeast edge of the said apron;

thence southwest along a line perpendicular to the said center line an approximate distance of 400 feet to a point;

thence northwest along a line parallel to the said centerline an approximate distance of 150 feet to a point which is on an extension of a line northeasterly along 10th Street;

thence southwest along the said extension an approximate distance of 200 feet to a point;

thence northwest along a line parallel to the southwest side of the large solitary hangar between 9th Street and 10th Street and passing along the southwest side of this hangar an approximate distance of 700 feet to a point which is on an extension of a line northeasterly along 9th Street;

thence southwest along the extension of the line along 9th Street an approximate distance of 250 feet to a point on the southwest line of Kane Avenue East;

thence northwest along the southwest line of Kane Avenue East an approximate distance of 650 feet to an angle point in Kane Avenue;

thence west along the south line of Kane Avenue an approximate distance of 2800 feet to a point on the northwest boundary of the Job Corps site, which is on the northwest side of Kane Avenue West;

thence northeast along the said northwest boundary an approximate distance of 50 feet to a point on the north boundary of the Job Corps site;

thence east along the north boundary of the Job Corps site, which is along the north side of Kane Avenue, an approximate distance of 1250 feet to an angle point in the boundary;

thence north along the boundary an approximate distance of 150 feet to an angle point in the boundary;

thence east along the boundary an approximate distance of 250 feet to an angle point in the boundary; and

thence north along the boundary an approximate distance of 300 feet to the point of beginning.

AGRICULTURAL AID AND TRADE MISSIONS ACT

SEC. 1. AGRICULTURAL AID AND TRADE MISSIONS.

(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, under the chairmanship of the Secretary of Agriculture, the Secretary of Agriculture, the Secretary of State, and the Administrator shall jointly establish agricultural aid and trade missions to eligible countries to encourage the countries to participate in those United States agricultural aid and trade programs for which they are eligible in accordance with section 2.

(b) COMPOSITION.—A mission to an eligible country shall be composed of—

(1) representatives of the Department of Agriculture, the Department of State, and the Agency for International Development, appointed by the Secretary of Agriculture, Secretary of State, and Administrator, respectively; and

(2) not less then 3, nor more than 6, representatives of market development cooperators, tax-exempt nonprofit agribusiness organizations, private voluntary organizations, and cooperatives, appointed jointly by the Secretary of Agriculture, Secretary of State, and Administrator,

who are knowledgeable about food aid and agricultural export programs, as well as the food needs, trade potential, and economy of the eligible country.

(c) TERMS.—The term of members of a mission shall terminate on submission of the report required under section 4.

(d) COMPENSATION AND TRAVEL EXPENSES.—A member of a mission shall serve without compensation, if not otherwise an officer or employee of the United States, except that a member, while away from home or regular place of business in the performance of services under this chapter, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5, United States Code.

SEC. 2. REQUIRED AND ADDITIONAL MISSIONS; ELIGIBLE COUNTRIES.

(a) REQUIRED MISSIONS.—Missions shall be established and completed—

(1) not later than 6 months after the date of enactment of this Act, in 8 countries chosen in accordance with the criteria set forth in subsection (c); and

(2) not later than 1 year after the date of enactment of this Act, in 8 additional countries chosen in accordance with such criteria.

(b) ADDITIONAL MISSIONS.—After the completion of the missions referred to in subsection (a), a mission may be established to any foreign country chosen in accordance with the criteria set forth in subsection (c).

(c) CRITERIA.—

(1) INDIVIDUAL COUNTRIES.—Subject to paragraph (2) and subsection (a), a mission shall be established to a foreign country if—

(A) the country is eligible for participation in United States agricultural aid and trade programs and such participation would be mutually advantageous to the country and the United States; and

(B) the country is friendly to the United States.

(2) MULTIPLE COUNTRIES.—In selecting countries for missions under this section, the Secretary shall—

(A) select countries that are in various stages of development and have various income levels; and

(B) consider—

(i) past participation in United States food programs;

(ii) experience with United States agricultural aid and trade programs; and

(iii) import market potential.

(d) ELIGIBILITY OF POLAND.—Notwithstanding any other provision of this section, the Secretary of Agriculture may establish a mission in Poland.

SEC. 3. FUNCTIONS.

The members of a mission to an eligible country shall—

(1) meet with representatives of Government agencies of the United States and the eligible country, as well as commodity boards, private enterprises, international organizations, private voluntary organizations, and cooperatives that operate in the eligible country, to assist in planning the extent to which United States agricultural aid and trade programs could be used in a mutally beneficial manner to meet the food and economic needs of the country;

(2) provide technical expertise and information to representatives of Government agencies of the United States and the eligible country and private organizations with respect to United States agricultural aid and trade programs and agricultural commodities and other assistance available to the eligible country under such programs; and

(3) assist in obtaining firm commitments for—

(A) proposals for food aid programs; and

(B) agreements for commodity sales.

SEC. 4. MISSION REPORTS.

Not later than 60 days after the completion of a mission under section 2, the mission shall submit a report that contains the findings and recommendations of the mission in carrying out its responsibilities under this chapter to the President, the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate, the Secretary of Agriculture, the Secretary of State, and the Administrator.

SEC. 5. PROGRESS REPORTS.

During the 2-year period beginning 1 year after the date of enactment of this Act, the Secretary of Agriculture and the Administrator shall jointly submit a quarterly report on progress made in implementing the recommendations of the missions reported under section 4, including the quantity and dollar value of commodities shipped to eligible countries and the specific development programs undertaken in accordance with this chapter, to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this chapter: *Provided,* That $200,000 is appropriated to carry out this chapter for fiscal year 1988.

SEC. 7. DEFINITIONS.

As used in this chapter:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Agency for International Development.

(2) ELIGIBLE COUNTRY.—The term "eligible country" means a country that is eligible under section 2(c).

(3) MISSION.—The term "mission" means an agricultural aid and trade mission established under section 1.

(4) UNITED STATES AGRICULTURAL AID AND TRADE PROGRAMS.—The term "United States agricultural aid and trade programs" includes—

(A) programs established under titles I and II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.);

(B) the program established under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) the agricultural export enhancement program established under section 1127 of the Food Security Act of 1985 (7 U.S.C. 1736v);

(D) the dairy export incentive program established under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14);

(E) the export credit guarantee program (GSM-102) established under section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f));

(F) the intermediate export credit guarantee program (GSM-103) established under section 4(b) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b));

(G) the food for progress program established under section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o); and

(H) other agricultural aid and trade programs authorized by the Food Security Act of 1985 (Public Law 99-198), by the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or by other applicable authorities.

Subtitle E—Public Law 480 and Related Provisions

SEC. 8. LEVEL OF SALES FOR FOREIGN CURRENCY.

Section 101(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701(b)) is amended—

(1) in paragraph (1), by adding at the end the following: "For each of the fiscal years 1988 through 1990, each agreement entered into under this title shall provide for some sale for foreign currencies for use under section 108 (except for agreements with a country the President determines is incapable of participating in section 108) unless the President determines that the level of agricultural commodities furnished under title I will be significantly reduced as a result of this sentence."; and

(2) in paragraph (2), by inserting ", or enter into sales agreements not providing for sales for foreign currencies for use under section 108," after "currencies".

SEC. 9. TERMS AND CONDITIONS OF AGREEMENTS WITH FRIENDLY COUNTRIES AND ORGANIZATIONS.

Section 103 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1703) is amended—

(1) by striking out "and" at the end of subsection (p);

(2) by striking out the period at the end of subsection (q) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(r) give favorable consideration in the allocation of commodities under this title to countries promoting the private sector through the use of section 108.".

SEC. 10. CRITERIA OF SELF-HELP MEASURES.

The first sentence of section 109(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1709(a)) is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(12) promoting the conservation and study of biological diversity.".

SEC. 11. USE OF COOPERATIVES TO FURNISH COMMODITIES.

The third sentence of section 202(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722(a)) is amended by inserting "or cooperatives" after "voluntary agencies".

SEC. 12. NONEMERGENCY PROGRAMS UNDER TITLE II OF PUBLIC LAW 480.

The first sentence of section 206 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726) is amended by inserting after "extraordinary relief requirements," the following: "or for nonemergency programs conducted by nonprofit voluntary agencies or cooperatives,".

SEC. 13. REPORTS ON SALES AND BARTER AND USE OF FOREIGN CURRENCY PROCEEDS.

Section 206 of the Agricultural Trade Development and Assistance Act of 1954 (7

U.S.C. 1726) (as amended by section 655 of this Act) is further amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following:

"(b) Not later than February 15, 1988, and annually thereafter, the President shall report to Congress on sales and barter, and use of foreign currency proceeds, under this section and section 207 during the preceding fiscal year. Such report shall include information on—

"(1) the quantity of commodities furnished for such sale or barter;

"(2) the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in the preceding fiscal year;

"(3) how such funds and services were used;

"(4) the amount of foreign currency proceeds that were used under agreements under this section and section 207 in the preceding fiscal year, and the percentage of the quantity of all commodities and products furnished under this section and section 207 in such fiscal year such use represented;

"(5) the President's best estimate of the amount of foreign currency proceeds that will be used, under agreements under this section and section 207, in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the President estimates will be furnished under this section and section 207 in each such fiscal year;

"(6) the effectiveness of such sales, barter, and use during the preceding fiscal year in facilitating the distribution of commodities and products under this section and section 207;

"(7) the extent to which such sales, barter, or uses—

"(A) displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made;

"(B) affect usual marketings of the United States;

"(C) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries; or

"(D) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this title; and

"(8) the President's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under this section and section 207.".

SEC. 14. USES OF FOREIGN CURRENCIES.

Section 207 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726a) is amended—

(1) in subsection (a), by inserting "or cooperative" after "agency";

(2) in subsection (b), by striking out "5 percent" and inserting in lieu thereof "10 percent"; and

(3) by adding at the end the following:

"(c) Foreign currencies generated from any partial or full sales or barter of commodities by a nonprofit voluntary agency or cooperative shall be used—

"(1) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this title; and

"(2) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.".

SEC. 15. PERIODS FOR REVIEW AND COMMENT.

Title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.) is amended by adding at the end thereof the following:

"SEC. 208. PERIODS FOR REVIEW AND COMMENT.

"(a) RESPONSE.—If a proposal to make agricultural commodities available under this title is submitted by a nonprofit voluntary agency or cooperative with the concurrence of the appropriate United States Government field mission or if a proposal to make agricultural commodities available to a nonprofit voluntary agency or cooperative is submitted by the United States Government field mission, a decision on the proposal shall be provided within 45 days after receipt by the Agency for International Development office in Washington, D.C. The response shall detail the reasons for approval or denial of the proposal. If the proposal is denied, the response shall specify the conditions that would need to be met for the proposal to be approved.

"(b) NOTICE AND COMMENT.—Not later than 30 days before the issuance of a final guideline to carry out this title, the President shall—

"(1) provide notice of the proposed guideline to nonprofit voluntary agencies and cooperatives that participate in programs under this title, and other interested persons, that the proposed guideline is available for review and comment;

"(2) make the proposed guideline available, on request, to the agencies, cooperatives, and others; and

"(3) take any comments received into consideration before the issuance of the final guideline.

"(c) DEADLINE FOR SUBMISSION OF COMMODITY ORDERS.—Not later than 15 days after receipt of a call forward from a field mission for commodities or products that meets the requirements of this title, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.".

I certify this to be a correct printing of the hand enrollment of Public Law 100-202 pursuant to section 101(n) of this joint resolution.

H.R. 3545, BUDGET RECONCILIATION ACT OF 1987

The text of the bill, H.R. 3545, follows:

H.R. 3545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1987".

SEC. 2. TABLE OF CONTENTS.

TITLE I—AGRICULTURE AND RELATED PROGRAMS

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1987".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

[1] Copy read "loans".

in the absence of the reduction required by this paragraph.".

(c) HONEY.—Effective only for the 1987 through 1990 crops of honey, section 201(b)(1) of such Act (7 U.S.C. 1446(b)(1)) is amended by adding at the end thereof the following new subparagraph:

"(D) Notwithstanding the foregoing provisions of this paragraph, effective for each of the 1987 through 1990 crops, the loan and purchase level for honey that would otherwise apply under subparagraphs (B) and (C), without regard to this subparagraph, shall be reduced for loans and purchases made after the date of the enactment of this subparagraph by 2 cents per pound for the 1987 crop, ¾ cents per pound for the 1988 crop, ½ cent per pound for the 1989 crop, and ¼ cent per pound for the 1990 crop.".

(d) MILK.—Section 201(d)(2) of such Act (7 U.S.C. 1446(d)) is amended—

(1) in subparagraph (C), by striking out "subparagraph (A)" and inserting in lieu thereof "this paragraph"; and

(2) by adding at the end thereof the following new subparagraph:

"(F) During calendar year 1988, the Secretary shall provide for a reduction of 2½ cents per hundredweight to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use.".

(e) SUGAR.—Section 201(j) of such Act (7 U.S.C. 1446(j)) is amended by adding at the end thereof the following new paragraph:

"(7) Notwithstanding any other provision of this section, in the case of each of the 1988 and 1989 crops of sugar beets and sugarcane, the Secretary shall reduce outlays under the program provided for under this subsection by an amount equal to 1.4 percent of the amount of outlays that would otherwise be incurred in the absence of the reduction required by this paragraph.".

(f) WOOL AND MOHAIR.—Section 703(b) of the National Wool Act of 1954 (7 U.S.C. 1782) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraphs (2) and (3), the";

(2) by striking out ": *Provided*," and all that follows through the period and inserting in lieu thereof a period; and

(3) by adding at the end thereof the following new paragraphs:

"(2) Except as provided in paragraph (3), for the marketing years beginning January 1, 1982, and ending December 31, 1990, the support price for shorn wool shall be 77.5 percent (rounded to the nearest full cent) of the amount calculated according to paragraph (1).

"(3) For the marketing years beginning January 1, 1988, and ending December 31, 1989, the support price for shorn wool shall be 76.4 percent (rounded to the nearest full cent) of the amount calculated according to paragraph (1).".

SEC. 1105. LOAN RATE DIFFERENTIALS.

Section 403 of the Agricultural Act of 1949 (7 U.S.C. 1423) is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding provisions of this section, for each of the 1988 through 1990 crops of wheat and feed grains, no adjustment in the loan rate applicable to a particular region, State, or county for the purpose of reflecting transportation differentials may increase or decrease such regional, State, or county loan rate from the level established for the previous year by more than the percentage change in the national average loan rate plus or minus 2 percent.".

SEC. 1106. STORAGE COST ADJUSTMENT.

For the fiscal years 1988 and 1989, the Secretary of Agriculture shall ensure that expenditures of the Commodity Credit Corporation for commercial storage, transportation, and handling of commodities owned by the Corporation (excluding storage payments made in accordance with section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e)) are reduced by $230,000,000 in such fiscal years from the amount of funds otherwise projected to be expended in fiscal years 1988 and 1989 under the budget base determined under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901) for commercial storage, transportation, and handling of such commodities. In order to achieve the savings required by this section, the Secretary shall adjust storage, handling, or transportation expenditures paid by the Corporation or take other appropriate actions.

SEC. 1107. ACREAGE LIMITATION PROGRAM FOR OATS.

Effective only for the 1988 through 1990 crops of feed grains, section 105C(f)(2) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(2)) is amended by adding at the end thereof the following new subparagraph:

"(G) In the case of the 1988 through 1990 crops of oats, the Secretary shall not establish a percentage reduction in accordance with paragraph (1) in excess of 5 percent. In implementing this subparagraph, the Secretary shall issue regulations that provide for the fair and equitable treatment of producers on a farm for which an oat and barley crop acreage base has been established. To ensure the efficient and fair implementation of this subparagraph, the Secretary shall announce revisions of the acreage limitation program for the 1988 crop of feed grains that implement this subparagraph as soon as practicable after the date of enactment of the Agricultural Reconciliation Act of 1987. In the case of the 1990 crop of oats, the Secretary may waive the application of this subparagraph if the Secretary determines that the supply of oats will be excessive.".

SEC. 1108. PRODUCER RESERVE PROGRAM.

Subparagraph (A) of the fourth sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)) is amended—

(1) in clause (i), by striking out "17 percent of the estimated total domestic and export usage of wheat during the then current marketing year for wheat, as determined by the Secretary" and inserting in lieu thereof "300 million bushels"; and

(2) in clause (ii), by striking out "7 percent of the estimated total domestic and export usage of feed grains during the then current marketing year for feed grains, as determined by the Secretary" and inserting in lieu thereof "450 million bushels".

SEC. 1109. YIELD ADJUSTMENTS.

Effective only for the 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice, section 506(b)(2) of the Agricultural Act of 1949 (7 U.S.C. 1466(b)(2)) is amended by adding at the end thereof the following new subparagraph:

"(C) In the case of each of the 1988 through 1990 crop years for a commodity, if the farm program payment yield for a farm is reduced more than 10 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established price payments for the commodity in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 10 percent below the farm program payment yield for the 1985 crop year. Such payments shall be made available to producers at the time final deficiency payments are made available.".

SEC. 1110. ADVANCE PAYMENTS.

Effective only for the 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice, section 107C(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b-2(a)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) If the Secretary establishes an acreage limitation or set-aside program for any of the 1988 through 1990 crops of wheat, feed grains, upland cotton, or rice under this Act and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary shall make advance deficiency payments available to producers for each of such crops."; and

(2) in paragraph (2)(F), by striking out clause (iii) and inserting in lieu thereof the following new clause:

"(iii)(I) in the case of wheat and feed grains, not less than 40 percent, nor more than 50 percent, of the projected payment rate; and

"(II) in the case of rice and upland cotton, not less than 30 percent, nor more than 50 percent, of the projected payment rate,".

SEC. 1111. ADVANCED EMERGENCY COMPENSATION PAYMENTS FOR WHEAT.

Effective only for the 1987 through 1990 crops of wheat, section 107D(c)(1)(E) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(E)) is amended by adding at the end thereof the following new clauses:

"(iii) Notwithstanding any other provision of this Act, in the case of each of the 1987 through 1990 crops of wheat, the Secretary shall—

"(I) by December 1 of each of the marketing years for such crops (or, in the case of the 1987 crop, as soon as practicable after the date of enactment of the Agricultural Reconciliation Act of 1987), estimate the national weighted average market price, per bushel of wheat, received by producers during such marketing year;

"(II) by December 15 of such marketing year (or, in the case of the 1987 crop, as soon as practicable, but not later than 75 days, after the date of enactment of such Act), use the estimate to make available to producers who have elected the payment option authorized by this clause not less than 75 percent of the increase in established price payments estimated to be payable with respect to such crop under this subparagraph; and

"(III) adjust the amount of each final established price payment for wheat to reflect any difference between the amount of any estimated payment made under this clause and the amount of actual payment due under this subparagraph.

"(iv) Producers shall elect the payment option authorized by clause (iii)—

"(I) in the case of the 1987 crop of wheat, not later than 45 days after the date of the enactment of this clause; and

"(II) in the case of each of the 1988 through 1990 crops of wheat, at the time of entering into a contract to participate in the program established by this section for the crop.".

SEC. 1112. TOBACCO PROVISIONS.

(a) TRANSFER AUTHORITY.—Section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 316(h)) is amended by adding at the end thereof the following new subsection:

"(h)(1) Notwithstanding any other provision of this section, the Secretary may permit, after June 30 of any crop year, the lease and transfer of flue-cured tobacco quota assigned to a farm if—

"(A) the planted acreage of flue-cured tobacco on the farm to which the quota is assigned is determined by the Secretary to be equal to or greater than 90 percent of the farm's acreage allotment, or the planted acreage is determined to be sufficient to produce the farm marketing quota under average conditions; and

"(B) the farm's expected production of flue-cured tobacco is less than 80 percent of the farm's effective marketing quota as a result of a natural disaster condition.

"(2) Any lease and transfer of quota under this paragraph may be made to any other farm within the same State in accordance with regulations issued by the Secretary.".

(b) PERIODIC ADJUSTMENT OF YIELD FACTOR FOR [2] FLUE-CURED TOBACCO ACREAGE-POUNDAGE QUOTAS.—Section 317(a) of such Act (7 U.S.C. 1314c(a)) is amended by striking out "and at five year intervals thereafter" each place it appears in paragraphs (2), (4), and (6)(A).

(c) IMPROVED TOBACCO FIELD MEASUREMENT.—It is the sense of Congress that the Secretary of Agriculture should review current compliance procedures for acreage or poundage quotas with respect to cigar and dark-air and fire-cured tobaccos under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) to determine means of improving such procedures. The Secretary shall recommend to Congress changes in existing law that would be necessary to implement any such improvements.

SEC. 1113. HAYING AND GRAZING.

(a) WHEAT.—Effective only for the 1988 through 1990 crops of wheat, section 107D of the Agricultural Act of 1949 (7 U.S.C. 1445b-3) is amended—

(1) in subsection (c)(1)(K)—

(A) in clause (i)—

(i) by striking out "(i)"; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(B) by striking out clause (ii);

(2) in subsection (f)(4)—

(A) in subparagraph (B)—

(i) by striking out "Subject to subparagraph (C), the" and inserting in lieu thereof "The"; and

(ii) by striking out "hay and grazing,"; and

(B) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C)(i) Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under subsection (c)(1)(C)), set-aside program, or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(iii) Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.".

(b) FEED GRAINS.—Effective only for the 1988 through 1990 crops of feed grains, section 105C of such Act (7 U.S.C. 1445b-3) is amended—

(1) in subsection (c)(1)(I)—

(A) in clause (i)—

(i) by striking out "(i)"; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(B) by striking out clause (ii);

(2) in subsection (f)(4)—

(A) in subparagraph (B)—

(i) by striking out "Subject to subparagraph (C), the" and inserting in lieu thereof "The"; and

(ii) by striking out "hay and grazing,"; and

(B) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C)(i) Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under subsection (c)(1)(B)), set-aside program, or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(iii) Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.".

(c) COTTON.—Effective only for the 1988 through 1990 crops of upland cotton, section 103A of such Act (7 U.S.C. 1444-1) is amended—

(1) in subsection (c)(1)(G)—

(A) in clause (i)—

(i) by striking out "(i)"; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(B) by striking out clause (ii);

(2) in subsection (f)(3)—

(A) in subparagraph (B)—

(i) by striking out "Subject to subparagraph (C), the" and inserting in lieu thereof "The"; and

(ii) by striking out "hay and grazing,"; and

(B) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C)(i) Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under subsection (c)(1)(C)), set-aside program, or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(iii) Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.".

(d) RICE.—Effective only for the 1988 through 1990 crops of rice, section 101A of such Act (7 U.S.C. 1441-1) is amended—

(1) in subsection (c)(1)(G)—

(A) in clause (i)—

(i) by striking out "(i)"; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(B) by striking out clause (ii);

(2) in subsection (f)(3)—

(A) in subparagraph (B)—

(i) by striking out "Subject to subparagraph (C), the" and inserting in lieu thereof "The"; and

(ii) by striking out "hay and grazing,"; and

(B) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C)(i) Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under subsection (c)(1)(B)), set-aside program, or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(iii) Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.".

Subtitle B—Optional Acreage Diversion

SEC. 1201. WHEAT OPTIONAL ACREAGE DIVERSION PROGRAM.

Effective only for the 1988 through 1990 crops of wheat, section 107D(c)(1)(C) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(C)) is amended—

(1) in clause (i)(II), by striking out ", subject to the compliance of the producers with clause (ii)";

(2) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following new clauses:

"(ii) Notwithstanding any other provision of this section, any producer who elects to devote all or a portion of the permitted wheat acreage of the farm to conservation uses (or other uses as provided in subparagraph (K)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to wheat and eligible for payments under this subparagraph for such crop at a per-bushel rate established by the Secretary, except that such rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the

[2] Copy read "FOR".

crop shall be announced by the Secretary prior to the period during which wheat producers may agree to participate in the program for such crop.

"(iii) The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total amount of wheat acreage that may be taken out of production under this subparagraph, taking into consideration the total amount of wheat acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the amount of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during such crop year."; and

(3) in clause (iv)—

(A) by inserting "(or all)" after "such portion"; and

(B) by inserting "under this subparagraph" after "subparagraph (K))".

SEC. 1202. FEED GRAINS OPTIONAL ACREAGE DIVERSION PROGRAM.

Effective only for the 1988 through 1990 crops of feed grains, section 105C(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1444e(c)(1)(B)) is amended—

(1) in clause (i)(II), by striking out ", subject to the compliance of the producers with clause (ii)";

(2) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following new clauses:

"(ii) Notwithstanding any other provision of this section, any producer who elects to devote all or a portion of the permitted feed grain acreage of the farm to conservation uses (or other uses as provided in subparagraph (I)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to feed grains and eligible for payments under this subparagraph for such crop at a per-bushel rate established by the Secretary, except that such rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which feed grain producers may agree to participate in the program for such crop.

"(iii) The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total amount of feed grain acreage that may be taken out of production under this subparagraph, taking into consideration the total amount of feed grain acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the amount of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during such crop year."; and

(3) in clause (iv)—

(A) by inserting "(or all)" after "such portion"; and

(B) by inserting "under this subparagraph" after "subparagraph (I))".

SEC. 1203. REGULATIONS.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations implementing the amendments made to sections 107D(c)(1)(C) and 105C(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(C) and 1444e(c)(1)(B)) by sections 1201 and 1202, respectively.

(b) NONREDUCTION OF BASES AND YIELDS.—Such regulations shall include provisions that ensure that the wheat or feed grain crop acreage base and farm program payment yield for any farm will not be reduced if the producers on the farm set aside from production all, or a portion, of the producer's permitted acreage under the acreage diversion program under section 107D(c)(1)(C) or 105C(c)(1)(B) as amended by section 1201 or 1202, respectively.

(c) EFFECT ON LANDLORD-TENANT RELATIONS.—Such regulations shall ensure, to the maximum extent practicable, that the programs authorized under this subtitle will not adversely affect the relationships between landlords and tenants, regarding any crop acreage base entered into such programs, in existence on the date of enactment of this Act.

Subtitle C—Farm Program Payments

SEC. 1301. PREVENTION OF THE CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS.

(a) IN GENERAL.—Effective beginning with the 1989 crops, the Food Security Act of 1985 is amended—

(1) in section 1001(1) (7 U.S.C. 1308), by striking out "For each" and inserting in lieu thereof "Subject to sections 1001A through 1001C, for each";

(2) in section 1001(2)—

(A) in subparagraph (A), by striking out "For each" and inserting in lieu thereof "Subject to sections 1001A through 1001C, for each"; and

(B) in subparagraph (C), by striking out "The total" and inserting in lieu thereof "Subject to sections 1001A through 1001C, the total"; and

(3) by inserting after section 1001 the following new section:

"SEC. 1001A. PREVENTION OF CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS; PAYMENTS LIMITED TO ACTIVE FARMERS.

"(a) PREVENTION OF CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS.—For the purposes of preventing the use of multiple legal entities to avoid the effective application of the payment limitations under section 1001:

"(1) IN GENERAL.—A person (as defined in section 1001(5)(B)(i)) that receives farm program payments (as described in paragraphs (1) and (2) of this section as being subject to limitation) for a crop year under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) may not also hold, directly or indirectly, substantial beneficial interests in more than two entities (as defined in section 1001(5)(B)(i)(II)) engaged in farm operations that also receive such payments as separate persons, for the purposes of the application of the limitations under section 1001. A person that does not receive such payments for a crop year may not hold, directly or indirectly, substantial beneficial interests in more than three entities that receive such payments as separate persons, for the purposes of the application of the limitations under section 1001.

"(2) MINIMAL BENEFICIAL INTERESTS.—For the purpose of this subsection, a beneficial interest in any entity that is less than 10 percent of all beneficial interests in such entity combined shall not be considered a substantial beneficial interest, unless the Secretary determines, on a case-by-case basis, that a smaller percentage should apply to one or more beneficial interests to ensure that the purpose of this subsection is achieved.

"(3) NOTIFICATION BY ENTITIES.—To facilitate administration of this subsection, each entity receiving such payments as a separate person shall notify each individual or other entity that acquires or holds a substantial beneficial interest in it of the requirements and limitations under this subsection. Each such entity receiving payments shall provide to the Secretary of Agriculture, at such times and in such manner as prescribed by the Secretary, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires a substantial beneficial interest.

"(4) NOTIFICATION OF INTEREST.—

"(A) IN GENERAL.—If a person is notified that the person holds substantial beneficial interests in more than the number of entities receiving payments that is permitted under this subsection for the purposes of the application of the limitations under section 1001, the person immediately shall notify the Secretary, designating those entities that should be considered as permitted entities for the person for purposes of applying the limitations. Each remaining entity in which the person holds a substantial beneficial interest shall be subject to reductions in the payments to the entity subject to limitation under section 1001 in accordance with this subparagraph. Each such payment applicable to the entity shall be reduced by an amount that bears the same relation to the full payment that the person's beneficial interest in the entity bears to all beneficial interests in the entity combined. Before making such reductions, the Secretary shall notify all individuals or entities affected thereby and permit them to adjust among themselves their interests in the designated entity or entities.

"(B) NOTICE NOT PROVIDED.—If the person does not so notify the Secretary, all entities in which the person holds substantial beneficial interests shall be subject to reductions in the per person limitations under section 1001 in the manner described in subparagraph (A). Before making such reductions, the Secretary shall notify all individuals or entities affected thereby and permit them to adjust among themselves their interests in the designated entity or entities.".

SEC. 1302. PAYMENTS LIMITED TO ACTIVE FARMERS.

Effective beginning with the 1989 crops, section 1001A of the Food Security Act of 1985, as added by section 1301, is amended by adding at the end the following:

"(b) PAYMENTS LIMITED TO ACTIVE FARMERS.—

"(1) IN GENERAL.—To be separately eligible for farm program payments (as described in paragraphs (1) and (2) of section 1001 as being subject to limitation) under the Agricultural Act of 1949 with respect to a particular farming operation (whether in the

person's own right or as a partner in a general partnership, a grantor of a revocable trust, a participant in a joint venture, or a participant in a similar entity (as determined by the Secretary) that is the producer of the crops involved), a person must be an individual or entity described in section 1001(5)(B)(i) and actively engaged in farming with respect to such operation, as provided under paragraphs (2), (3), and (4).

"(2) GENERAL CLASSES ACTIVELY ENGAGED IN FARMING.[3]—For the purposes of paragraph (1), except as otherwise provided in paragraph (3):

"(A) INDIVIDUALS.—An individual shall be considered to be actively engaged in farming with respect to a farm operation if—

"(i) the individual makes a significant contribution (based on the total value of the farming operation) of—

"(I) capital, equipment, or land; and

"(II) personal labor or active personal management;

to the farming operation; and

"(ii) the individual's share of the profits or losses from the farming operation is commensurate with the individual's contributions to the operation; and

"(iii) the individual's contributions are at risk.

"(B) CORPORATIONS OR OTHER ENTITIES.—A corporation or other entity described in section 1001(5)(B)(i)(II) shall be considered as actively engaged in farming with respect to a farming operation if—

"(i) the entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;

"(ii) the stockholders or members collectively make a significant contribution of personal labor or active personal management to the operation; and

"(iii) the standards provided in clauses (ii) and (iii) of paragraph (A), as applied to the entity, are met by the entity.

"(C) ENTITIES MAKING SIGNIFICANT CONTRIBUTIONS.—If a general partnership, joint venture, or similar entity (as determined by the Secretary) separately makes a significant contribution (based on the total value of the farming operation involved) of capital, equipment, or land, and the standards provided in clauses (ii) and (iii) of paragraph (A), as applied to the entity, are met by the entity, the partners or members making a significant contribution of personal labor or active personal management shall be considered to be actively engaged in farming with respect to the farming operation involved.

"(D) EQUIPMENT AND PERSONAL LABOR.—In making determinations under this subsection regarding equipment and personal labor, the Secretary shall take into consideration the equipment and personal labor normally and customarily provided by farm operators in the area involved to produce program crops.

"(3) SPECIAL CLASSES ACTIVELY ENGAGED IN FARMING.—Notwithstanding paragraph (2), the following persons shall be considered to be actively engaged in farming with respect to a farm operation:

"(A) LANDOWNERS.—A person that is a landowner contributing the owned land to the farming operation if the landowner receives rent or income for such use of the land based on the land's production or the operation's operating results, and the person meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A).

"(B) FAMILY MEMBERS.—With respect to a farming operation conducted by persons, a majority of whom are individuals who are family members, an adult family member who makes a significant contribution (based on the total value of the farming operation) of active personal management or personal labor and, with respect to such contribution, who meets the standards provided in clauses (ii) and (iii) of paragraph (2)(A). For the purposes of the preceding sentence, the term 'family member' means an individual to whom another family member in the farming operation is related as lineal ancestor, lineal descendant, or sibling (including the spouses of those family members who do not make a significant contribution themselves).

"(C) SHARECROPPERS.—A sharecropper who makes a significant contribution of personal labor to the farming operation and, with respect to such contribution, who meets the standards provided in clauses (ii) and (iii) of paragraph (2)(A).

"(4) PERSONS NOT ACTIVELY ENGAGED IN FARMING.—For the purposes of paragraph (1), except as provided in paragraph (3), the following persons shall not be considered to be actively engaged in farming with respect to a farm operation:

"(A) LANDLORDS.—A landlord contributing land to the farming operation if the landlord receives cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for such use of the land.

"(B) OTHER PERSONS.—Any other person, or class of persons, determined by the Secretary as failing to meet the standards set out in paragraphs (2) and (3).

"(5) CUSTOM FARMING SERVICES.—A person receiving custom farming services will be considered separately eligible for payment limitation purposes if such person is actively engaged in farming based on paragraphs (1) through (3). No other rules with respect to custom farming shall apply.".

SEC. 1303. DEFINITION OF PERSON: ELIGIBLE INDIVIDUALS AND ENTITIES; RESTRICTIONS APPLICABLE TO CASH-RENT TENANTS.

Effective beginning with the 1989 crops:

(a) IN GENERAL.—Section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)) is amended—

(1) by inserting after the first sentence of subparagraph (A) the following new sentence: "Such regulations shall incorporate the provisions in subparagraphs (B) through (E) of this paragraph, paragraphs (6) and (7), and sections 1001A through 1001C.";

(2) by striking out the second sentence of subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(B)(i) For the purposes of the regulations issued under subparagraph (A), subject to clause (ii), the term 'person' means—

"(I) an individual, including any individual participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity (as determined by the Secretary);

"(II) a corporation, joint stock company, association, limited partnership, charitable organization, or other similar entity (as determined by the Secretary), including any such entity or organization participating in the farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar entity (as determined by the Secretary); and

"(III) a State, political subdivision, or agency thereof.

"(ii)(I) Such regulations shall provide that the term 'person' does not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers.

"(II) In defining the term 'person' as it will apply to irrevocable trusts and estates, the Secretary shall ensure that fair and equitable treatment is given to trusts and estates and the beneficiaries thereof.

"(iii) Such regulations shall provide that, with respect to any married couple, the husband and wife shall be considered to be one person, except that any married couple consisting of spouses who, prior to their marriage, were separately engaged in unrelated farming operations, each spouse shall be treated as a separate person with respect to the farming operation brought into the marriage by such spouse so long as such operation remains as a separate farming operation, for the purposes of the application of the limitations under this section.";

(3) by redesignating subparagraph (B) as subparagraph (C); and

(4) by adding at the end thereof the following new subparagraphs:

"(D) Any person that conducts a farming operation to produce a crop subject to limitations under this section as a tenant that rents the land for cash (or a crop share guaranteed as to the amount of the commodity to be paid in rent) and that makes a significant contribution of active personal management but not of personal labor shall be considered the same person as the landlord unless the tenant makes a significant contribution of equipment used in the farming operation.

"(E) The Secretary may not approve (for purposes of the application of the limitations under this section) any change in a farming operation that otherwise will increase the number of persons to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive. In the implementation of the preceding sentence, the addition of a family member to a farming operation under the criteria set out in section 1001A(b)(1)(B) shall be considered a bona fide and substantive change in the farming operation.".

(b) LANDS OWNED BY STATES, POLITICAL SUBDIVISIONS, AND PUBLIC SCHOOLS.—Paragraph (6) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308(6)) is amended to read as follows:

"(6) The provisions of this section that limit payments to any person shall not be applicable to land owned by a public school district or land owned by a State that is used to maintain a public school.".

SEC. 1304. MORE EFFECTIVE AND UNIFORM APPLICATION OF PAYMENT LIMITATIONS.

(a) EDUCATION PROGRAM.

(1) IN GENERAL.—The Secretary of Agriculture shall implement a payment provisions education program for appropriate personnel of the Department of Agriculture and members and other personnel of local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), for the purpose of fostering more effective and uniform application of the payment limitations and restrictions under sections 1001 through 1001C of the Food Security Act of 1985.

[3] Copy read "CLASSES ACTIVELY ENGAGED IN FARMING".

(2) TRAINING.—The education program shall provide training to such personnel in the fair, accurate, and uniform application to individual farming operations of the provisions of law and regulation relating to the payment provisions of sections 1001 through 1001C of the Food Security Act of 1985. Particular emphasis shall be given to the changes in the law made by sections 1301, 1302, and 1303 of this Act.

(3) IMPLEMENTATION.—The education program shall be fully implemented, and the training completed, not later than 30 days after the date final regulations are issued to carry out the amendments made by this subtitle.

(4) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program provided under this subsection through the Commodity Credit Corporation.

(b) SCHEMES OR DEVICES.—Effective beginning with the 1989 crops, the Food Security Act of 1985 is amended by inserting after section 1001A, as added by sections 1301 and 1302 of this Act, the following new section:

"SEC. 1001B. SCHEMES OR DEVICES.

"If the Secretary of Agriculture determines that any person has adopted a scheme or device to evade, or that has the purpose of evading, section 1001, 1001A, or 1001C, such person shall be ineligible to receive farm program payments (as described in paragraphs (1) and (2) of section 1001 as being subject to limitation) applicable to the crop year for which such scheme or device was adopted and the succeeding crop year.".

SEC. 1305. REGULATIONS; TRANSITION RULES; EQUITABLE ADJUSTMENTS.

(a) REGULATIONS.—

(1) ISSUANCE.—The Secretary of Agriculture shall issue—

(A) proposed regulations to carry out the amendments made by this subtitle not later than April 1, 1988; and

(B) final regulations to carry out such amendments not later than August 1, 1988.

(2) FIELD INSTRUCTIONS.—Any field instructions relating to, or other supplemental clarifications of, the regulations issued under sections 1001 through 1001C of the Food Security Act of 1985 shall not be used in resolving issues involved in the application of the payment limitations or restrictions under such sections or regulations to individuals, other entities, or farming operations until copies of the publication are made available to the public.

(b) ALLOWANCE FOR EQUITABLE REORGANIZATIONS.—To allow for the equitable reorganization of farming operations to conform to the limitations and restrictions contained in the amendments made to the Food Security Act of 1985 by this subtitle in cases in which the application of such limitations and restrictions will reduce payments to the farming operation (as determined by the Secretary), the Secretary may waive the application of the substantive change rule under section 1001(5)(E), as added by section 1303 of this Act, or any regulation of the Secretary containing a comparable rule, to any reorganization applied for prior to the final date when producers are eligible to enter into contracts to participate in the commodity programs established for the 1989 crop year, to the extent the Secretary determines appropriate to facilitate any such equitable reorganizations that does not increase such payments.

(c) GOOD FAITH RELIANCE ON OFFICIAL ADVICE.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by adding at the end thereof the following new paragraph:

"(7) Regulations of the Secretary shall establish time limits for the various steps involved with notice, hearing, decision, and the appeals procedure in order to ensure expeditious handling and settlement of payment limitation disputes. Notwithstanding any other provision of law, actions taken by an individual or other entity in good faith on action or advice of an authorized representative of the Secretary may be accepted as meeting the requirement under this section or section 1001A, to the extent the Secretary deems it desirable in order to provide fair and equitable treatment.".

(d) CONSERVATION RESERVE APPLICATION.—Notwithstanding section 1234(f)(2) of the Food Security Act of 1985 (16 U.S.C. 3834(f)), paragraphs (5) through (7) of section 1001, as amended by this subtitle, and sections 1001A through 1001C, of the Food Security Act of 1985 shall apply to the conservation reserve program under subtitle D of title XII of such Act (16 U.S.C. 3831 et seq.) with respect to rental payments to persons under contracts entered into after the date of the enactment of this Act, except with respect to landlords that receive cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land.

SEC. 1306. FOREIGN PERSONS MADE INELIGIBLE FOR PROGRAM BENEFITS.

Effective beginning with the 1989 crops, the Food Security Act of 1985 is amended by inserting after section 1001B, as added by section 1304 of this Act, the following new section:

"SEC. 1001C. FOREIGN PERSONS MADE INELIGIBLE FOR PROGRAM BENEFITS.

"Notwithstanding any other provision of law:

"(a) IN GENERAL.—For each of the 1989 and 1990 crops, any person who is not a citizen of the United States or an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) shall be ineligible to receive any type of production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) with respect to any commodity produced, or land set aside from production, on a farm that is owned or operated by such person, unless such person is an individual who is providing land, capital, and a substantial amount of personal labor in the production of crops on such farm.

"(b) CORPORATIONS OR OTHER ENTITIES.—For purposes of subsection (a), a corporation or other entity shall be considered a person that is ineligible for production adjustment payments, price support program loans, payments, or benefits if more than 10 percent of the beneficial ownership of the entity is held by persons who are not citizens of the United States or aliens lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act, unless such persons provide a substantial amount of personal labor in the production of crops on such farm. Notwithstanding the foregoing provisions of this subsection, with respect to an entity that is determined to be ineligible to receive such payments, loans, or other benefits, the Secretary may make payments, loans, and other benefits in an amount determined by the Secretary to be representative of the percentage interests of the entity that is owned by citizens of the United States and aliens lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act.

"(c) PROSPECTIVE APPLICATION.—No person shall become ineligible under this section for production adjustment payments, price support program loans, payments or benefits as the result of the production of a crop of an agricultural commodity planted, or commodity program or conservation reserve contract entered into, before the date of the enactment of this section.".

SEC. 1307. HONEY LOAN LIMITATION.

Section 1001(2)(C) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(C)) is amended—

(1) by striking out clause (i); and

(2) in clause (ii), by striking out "(ii)".

Subtitle D—Rural Electrification Administration Programs

CHAPTER 1—PREPAYMENT OF RURAL ELECTRIFICATION LOANS

SEC. 1401. PREPAYMENT OF LOANS.

(a) ELIGIBILITY TO PREPAY.—Notwithstanding subsections (c), (d), and (e) of section 306A of the Rural Electrification Act of 1936 (7 U.S.C. 936a (c), (d), and (e)), during fiscal year 1988, a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with subsections (a) and (b) of section 306A of such Act, except that any prepayment that would cause the total amount of such prepayments during fiscal year 1988 to exceed $2,000,000,000 shall be subject solely to the approval of the Secretary of the Treasury.

(b) PRIORITY FOR APPROVAL.—In determining which borrowers shall be permitted to prepay loans under subsection (a):

(1) The Administrator of the Rural Electrification Administration shall give priority to those 8 borrowers that were determined by the Administrator, prior to the date of the enactment of this Act, to be eligible to prepay, or that prepaid, an advance under section 306A of such Act (as in effect prior to the date of the enactment of this Act), except that to retain such priority a borrower shall—

(A) notify the Administrator in writing, within 30 days after the issuance of regulations to carry out this section, of the intent of the borrower to prepay; and

(B) complete such prepayment by disbursing funds to the Federal Financing Bank to prepay loan advances within 120 days after the issuance of such regulations.

(2) In considering requests for prepayment under subsection (a) by borrowers not described in paragraph (1), the Administrator shall permit prepayment based on the order in which borrowers are prepared to disburse funds to the Federal Financing Bank to complete such prepayments. If more than 1 borrower is so prepared at the same time, and if the combined amount of such prepayments would cause the total amount of prepayments during fiscal year 1988, under this section, to exceed $2,000,000,000, the Administrator shall—

(A) base the determination on the date on which prepayment applications have been submitted; or

(B) permit partial prepayment by two or more borrowers.

(c) REGULATIONS.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Rural Electrification Administration shall issue such regulations as are necessary to carry at this section.

(d) STUDY.—Not later than January 1, 1989, the Comptroller General of the United States shall—

(1) study—

(A) all benefits provided by Federal Financing Bank lending and the procedures and conditions for the prepayment of current Federal Financing Bank loans;

(B) the benefits and costs to Federal Financing Bank borrowers of making prepayments; and

(C) alternative conditions and procedures for prepayment of all Federal Financing Bank loans to balance Federal benefits with Federal costs; and

(2) submit to Congress a report describing the results of such study, together with any appropriate recommendations.

SEC. 1402. USE OF FUNDS.

The Rural Electrification Act of 1936 is amended by inserting after section 311 (7 U.S.C. 940a) the following new section:

"SEC. 312. USE OF FUNDS.

"A borrower of an insured or guaranteed electric loan under this Act may, without restriction or prior approval of the Administrator, invest its own funds or make loans or guarantees, not in excess of 15 percent of its total utility plant.".

SEC. 1403. CUSHION OF CREDIT PAYMENTS PROGRAM.

Title III of the Rural Electrification Act of 1936 (as amended by section 1402 of this Act) is amended by adding at the end thereof the following new section:

"SEC. 313. CUSHION OF CREDIT PAYMENTS PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Administrator shall develop and promote a program to encourage borrowers to voluntarily make deposits into cushion of credit accounts established within the Rural Electrification and Telephone Revolving Fund.

"(2) INTEREST.—Amounts in each cushion of credit account shall accrue interest to the borrower at a rate of 5 percent per annum.

"(3) BALANCE.—A borrower may reduce the balance of its cushion of credit account only if the amount obtained from the reduction is used to make scheduled payments on loans made or guaranteed under this Act.

"(b) USES OF CUSHION OF CREDIT PAYMENTS.—

"(1) IN GENERAL.—

"(A) CASH BALANCE.—Cushion of credit payments shall be held in the Rural Electrification and Telephone Revolving Fund as a cash balance in the cushion of credit accounts of borrowers.

"(B) INTEREST.—All cash balance amounts (obtained from cushion of credit payments, loan payments, and other sources) held by the Fund shall bear interest to the Fund at a rate equal to the weighted average rate on outstanding certificates of beneficial ownership issued by the Fund.

"(C) CREDITS.—The amount of interest accrued on the cash balances shall be credited to the Fund as an offsetting reduction to the amount of interest paid by the Fund on its certificates of beneficial ownership.

"(2) RURAL ECONOMIC DEVELOPMENT SUBACCOUNT.—

"(A) MAINTENANCE OF ACCOUNT.—The Administrator shall maintain a subaccount within the Rural Electrification and Telephone Revolving Fund to which shall be credited, on a monthly basis, a sum determined by multiplying the outstanding cushion of credit payments made after October 1, 1987, by the difference (converted to a monthly basis) between the average weighted interest rate paid on outstanding certificates of beneficial ownership issued by the Fund and the 5 percent rate of interest provided to borrowers on cushion of credit payments.

"(B) GRANTS.—The Administrator is authorized, from the interest differential sums credited this subaccount and from any other funds made available thereto, to provide grants or zero interest loans to borrowers under this Act for the purpose of promoting rural economic development and job creation projects, including funding for project feasibility studies, start-up costs, incubator projects, and other reasonable expenses for the purpose of fostering rural development.

"(C) REPAYMENTS.—In the case of zero interest loans, the Administrator shall establish such reasonable repayment terms as will ensure borrower participation.

"(D) PROCEEDS.—All proceeds from the repayment of such loans shall be returned to the subaccount.

"(E) NUMBER OF GRANTS.—Such loans and grants shall be made during each fiscal year to the full extent of the amounts held by the rural economic development subaccount, subject only to limitations as may be from time-to-time imposed by law.".

CHAPTER 2—RURAL TELEPHONE BANK BORROWERS

SEC. 1411. RURAL TELEPHONE BANK INTEREST RATES AND LOAN PREPAYMENTS.

(a) FINDINGS.—Congress finds that—

(1) overcharging of Rural Telephone Bank borrowers has resulted in $179,000,000 in excess profits and has imperiled borrowers by raising costs to ratepayers;

(2) borrowers will be able to seek redress under section 408(b)(3)(G) of the Rural Electrification Act of 1936, as added by subsection (c), or may leave the Rural Telephone Bank, but in no case may the Governor of the Bank issue regulations requiring any penalty from borrowers seeking to retire debt prior to maturity; and

(3) any reduction in Federal Government [4] expenditures in the operation of the Rural Telephone Bank, from borrowers' conduct resulting from the implementation of the amendments made by subsections (b) and (c), should be included in all calculations of the budget of the United States Government, authorized under the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.

(b) RURAL TELEPHONE BANK LOAN PREPAYMENTS.— [5]

(1) PREPAYMENTS AUTHORIZED.—Section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)) is amended by adding at the end the following new paragraph:

"(8) A borrower with a loan from the Rural Telephone Bank may prepay such loan (or any part thereof) by paying the face amount thereof without being required to pay the prepayment penalty set forth in the note covering such loan, if such prepayment is not made later than September 30, 1988.".

(2) PREPAYMENT REGULATIONS.—The Governor of the Rural Telephone Bank shall issue regulations to carry out the amendment made by paragraph (1) within 30 days after the date of enactment of this Act. Such regulations shall implement the amendment made by paragraph (1) without the addition of any restrictions not set forth in such amendment.

(c) DETERMINATION OF INTEREST RATES ON RURAL TELEPHONE BANK LOANS.—Paragraph (3) of section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)(3)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) On and after the date of the enactment of this paragraph, advances made on or after such date of enactment under loan commitments made on or after October 1, 1987, shall bear interest at the rate determined under subparagraph (C), but in no event at a rate that is less than 5 percent per annum.

"(C) The rate determined under this subparagraph shall be—

"(i) for the period beginning on the date the advance is made and ending at the close of the fiscal year in which the advance is made, the average yield (on the date of the advance) on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the advance; and

"(ii) after the fiscal year in which the advance is made, the cost of money rate for such fiscal year, as determined under subparagraph (D).

"(D) Within 30 days after the end of each fiscal year, the Governor shall determine to the nearest 0.01 percent the cost of money rate for the fiscal year, by calculating the sum of the results of the following calculations:

"(i) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class A stock, multiplied by the rate of return payable by the telephone bank during the fiscal year, as specified in section 406(c), to holders of class A stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(ii) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class B stock, multiplied by the rate at which dividends are payable by the telephone bank during the fiscal year, as specified in section 406(d), to holders of class B stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(iii) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class C stock, multiplied by the rate at which dividends are payable by the telephone bank during the fiscal year, under section 406(e), to holders of class C stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(iv)(I) The sum of the results of the calculations described in subclause (II).

"(II) The amounts received by the telephone bank during the fiscal year from each issue of telephone debentures and other obligations of the telephone bank, multiplied, respectively, by the rates at which interest is payable during the fiscal year by the telephone bank to holders of each issue, each of which products is divided, respectively, by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(v)(I) The amount by which the aggregate of the amounts advanced by the tele-

[4] Copy read "government".
[5] Copy read "PREPAYMENTS.".

phone bank during the fiscal year exceeds the aggregate of the amounts received by the telephone bank from the issuance of class A stock, class B stock, class C stock, and telephone debentures and other obligations of the telephone bank during the fiscal year, multiplied by the historic cost of money rate as of the close of the fiscal year immediately preceding the fiscal year, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(II) For purposes of this clause, the term 'historic cost of money rate', with respect to the close of a preceding fiscal year, means the sum of the results of the following calculations: The amounts advanced by the telephone bank in each fiscal year during the period beginning with fiscal year 1974 and ending with the preceding fiscal year, multiplied, respectively, by the cost of money rate for the fiscal year (as set forth in the table in subparagraph (E)) for fiscal years 1974 through 1987, and as determined by the Governor under this subparagraph for fiscal years after fiscal year 1987), each of which products is divided, respectively, by the aggregate of the amounts advanced by the telephone bank during the period.

"(E) For purposes of subparagraph (D)(II), the cost of money rate for the fiscal years in which each advance was made shall be as set forth in the following table:

"For advances made in—	The cost of money rate shall be—
Fiscal year 1974	5.01 percent
Fiscal year 1975	5.85 percent
Fiscal year 1976	5.33 percent
Fiscal year 1977	5.00 percent
Fiscal year 1978	5.87 percent
Fiscal year 1979	5.93 percent
Fiscal year 1980	8.10 percent
Fiscal year 1981	9.46 percent
Fiscal year 1982	8.39 percent
Fiscal year 1983	6.99 percent
Fiscal year 1984	6.55 percent
Fiscal year 1985	5.00 percent
Fiscal year 1986	5.00 percent
Fiscal year 1987	5.00 percent.

For purposes of this subparagraph, the term 'fiscal year' means the 12-month period ending on September 30 of the designated year.

"(F)(i) Notwithstanding subparagraph (B), if a borrower holds a commitment for a loan under this section made on or after October 1, 1987, and before the date of the enactment of this paragraph, part or all of the proceeds of which have not been advanced as of such date of enactment, the borrower may, until the later of the date the next advance under the loan commitment is made or 90 days after such date of enactment, elect to have the interest rate specified in the loan commitment apply to the unadvanced portion of the loan in lieu of the rate which (but for this clause) would apply to the unadvanced portion under this paragraph. If any borrower makes an election under this clause with respect to a loan, the Governor shall adjust the interest rate which applies to the unadvanced portion of the loan accordingly.

"(ii)(I) If the telephone bank, pursuant to section 407(b), issues telephone debentures on any date to refinance telephone debentures or other obligations of the telephone bank, the telephone bank shall, in addition to any interest rate reduction required by any other provision of this paragraph, for the period applicable to the advance, reduce the interest rate charged on each advance made under this section during the fiscal year in which the refinanced debentures or other obligations were originally issued by the amount applicable to the advance.

"(II) For purposes of subclause (I), the term 'the period applicable to the advance' means the period beginning on the issue date described in subclause (I) and ending on the earlier of the date the advance matures or is completely prepaid.

"(III) For purposes of subclause (I), the term 'the amount applicable to the advance' means an amount which fully reflects that percentage of the funds saved by the telephone bank as a result of the refinancing which is equal to the percentage representation of the advance in all advances described in subclause (I).

"(IV) Within 60 days after any issue date described in subclause (I), the Governor shall amend the loan documentation for each advance described in subclause (I), as necessary, to reflect any interest rate reduction applicable to the advance by reason of this clause, and shall notify each affected borrower of the reduction.

"(G) Within 30 days after the publication of any determination made under subparagraph (D), any affected borrower may obtain review of the determination, or any other equitable relief as may be determined appropriate, by the United States court of appeals for the judicial circuit in which the borrower does business by filing a written petition requesting the court to set aside or modify such determination. On receipt of such a petition, the clerk of the court shall transmit a copy of the petition to the Governor. On receipt of a copy of such a petition from the clerk of the court, the Governor shall file with the court the record on which the determination is based. The court shall have jurisdiction to affirm, set aside, or modify the determination.

"(H) Within 5 days after determining the cost of money rate for a fiscal year, the Governor shall—

"(i) cause the determination to be published in the Federal Register in accordance with section 552 of title 5, United States Code; and

"(ii) furnish a copy of the determination to the Comptroller General of the United States.

"(I) The Comptroller General shall review, on an expedited basis, each determination a copy of which is received from the Governor and, within 15 days after the date of such receipt, furnish Congress a report on the accuracy of the determination.

"(J) The telephone bank shall not sell or otherwise dispose of any loan made under this section, except as provided in this paragraph.".

SEC. 1412. INTEREST RATE TO BE CONSIDERED FOR PURPOSES OF ASSESSING ELIGIBILITY FOR LOANS.

Paragraph (4) of section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)(4)) is amended by inserting at the end the following: "For purposes of determining the creditworthiness of a borrower for a loan under this paragraph, the Governor shall assume that the loan, if made, would bear interest at a rate equal to the average yield (on the date of the determination) on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the loan.".

SEC. 1413. ESTABLISHMENT OF RESERVE FOR LOSSES DUE TO INTEREST RATE FLUCTUATIONS.

(a) ESTABLISHMENT OF RESERVE; FUNDING.—Section 406 of the Rural Electrification Act of 1936 (7 U.S.C. 947) is amended by adding at the end the following:

"(h) There is hereby established in the telephone bank a reserve for losses due to interest rate fluctuations. Within 30 days after the date of the enactment of this subsection, the Governor of the telephone bank shall transfer to the reserve for losses due to interest rate fluctuations all amounts in the reserve for contingencies as of the date of the enactment of this subsection. Amounts in the reserve for interest rate fluctuations may be expended only to cover operating losses of the telephone bank (other than losses attributable to loan defaults) and only after taking into consideration any recommendations made by the General Accounting Office under section 1413(b) of the Rural Telephone Bank Borrowers Fairness Act of 1987.".

(b) STUDY BY GENERAL ACCOUNTING OFFICE.—Within 180 days after the date of the enactment of this Act, the General Accounting Office shall complete a study of operations of the telephone bank and report its recommendations to the Committees on Agriculture and Government Operations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate with respect to—

(1) the appropriate level of funding for the reserve for losses due to interest rate fluctuations established in section 406(h) of the Rural Electrification Act of 1936 (7 U.S.C. 947(h)) (as added by subsection (a));

(2) the circumstances under which amounts in the reserve for losses due to interest rate fluctuations should be expended;

(3) the circumstances under which amounts should be added to the reserve for losses due to interest rate fluctuations; and

(4) the disposition of excess reserves.

In such study, the General Accounting Office shall consider the effects of such recommendations on telephone bank borrowers, the subscribers of such borrowers, and the United States Government.

(c) LIMITATION ON ESTABLISHMENT OF NEW RESERVES.—Subsection (g) of section 406 of the Rural Electrification Act of 1936 (7 U.S.C. 947(g)) is amended—

(1) by striking out "reserves for losses," and inserting in lieu thereof "the reserve for loan losses,"; and

(2) by adding at the end the following: "The telephone bank may not establish any reserve other than the reserves referred to in this subsection and in subsection (h).".

SEC. 1414. PUBLICATION OF RURAL TELEPHONE BANK POLICIES AND REGULATIONS.

Notwithstanding the exemption contained in section 553(a)(2) of title 5, United States Code, the Governor of the telephone bank shall cause to be published in the Federal Register, in accordance with section 553 of title 5, United States Code, all rules, regulations, bulletins, and other written policy standards governing the operation of the telephone bank's programs relating to public property, loans, grants, benefits, or contracts. After September 30, 1988, the telephone bank may not deny a loan or advance to, or take any other adverse action against, any applicant or borrower for any reason which is based upon a rule, regulation, bulletin, or other written policy standard which has not been published pursuant to such section.

Subtitle E—Miscellaneous

SEC. 1501. MARKETING ORDER PENALTIES.

Section 8c(14) of the Agricultural Adjustment Act of 1933 (7 U.S.C. 608c(14)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by inserting "(A)" before "Any"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) may be assessed a civil penalty by the Secretary not exceeding $1,000 for each such violation. Each day during which such violation continues shall be deemed a separate violation, except that if the Secretary finds that a petition pursuant to paragraph (15) was filed and prosecuted by the handler in good faith and not for delay, no civil penalty may be assessed under this paragraph for such violations as occurred between the date on which the handler's petition was filed with the Secretary, and the date on which notice of the Secretary's ruling thereon was given to the handler in accordance with regulations prescribed pursuant to paragraph (15). The Secretary may issue an order assessing a civil penalty under this paragraph only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable in the district courts of the United States in any district in which the handler subject to the order is an inhabitant, or has the handler's principal place of business. The validity of such order may not be reviewed in an action to collect such civil penalty.".

SEC. 1502. STUDY OF USE OF AGRICULTURAL COMMODITY FUTURES AND OPTIONS MARKETS.

The last sentence of section 1742 of the Food Security Act of 1985 (7 U.S.C. 1421 note) is amended by striking out "1988" and inserting in lieu thereof "1989".

SEC. 1503. AUTHORIZATION OF APPROPRIATIONS FOR PHILIPPINE FOOD AID INITIATIVE.

Section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) is amended by adding at the end thereof the following new paragraph:

"(12) There is authorized to be appropriated for fiscal year 1988, in addition to any other funds authorized to be appropriated, $1,000,000 for technical assistance for the sale or barter of commodities under paragraph (7) to strengthen nonprofit private organizations and cooperatives in the Philippines.".

SEC. 1504. RURAL INDUSTRIALIZATION ASSISTANCE.

Section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)) is amended—

(1) by inserting "and private nonprofit corporations" after "public bodies"; and

(2) by striking out "to facilitate development of" and inserting in lieu thereof "to finance and facilitate development of small and emerging".

SEC. 1505. PLANT VARIETY PROTECTION FEES.

Section 31 of the Plant Variety Protection Act (7 U.S.C. 2371) is amended to read as follows:

"SEC. 31. PLANT VARIETY PROTECTION FEES.

"(a) IN GENERAL.—The Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable fees for services performed under this Act.

"(b) LATE PAYMENT PENALTY.—On failure to pay such fees, the Secretary shall assess a late payment penalty. Such overdue fees shall accrue interest as required by section 3717 of title 31, United States Code.

"(c) DISPOSITION OF FUNDS.—Such fees, late payment penalties, and accrued interest collected shall be credited to the account that incurs the cost and shall remain available without fiscal year limitation to pay the expenses incurred by the Secretary in carrying out this Act. Such funds collected (including late payment penalties and any interest earned) may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.

"(d) ACTIONS FOR NONPAYMENT.—The Attorney General may bring an action for the recovery of charges that have not been paid in accordance with this Act against any person obligated for payment of such charges under this Act in any United States district court or other United States court for any territory or possession in any jurisdiction in which the person is found, resides, or transacts business. The court shall have jurisdiction to hear and decide the action.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.".

SEC. 1506. ANNUAL APPROPRIATIONS TO REIMBURSE THE COMMODITY CREDIT CORPORATION FOR NET REALIZED LOSSES.

(a) IN GENERAL.—The first sentence of section 2 of Public Law 87-155 (15 U.S.C. 713a-11) is amended by striking out ", commencing with the fiscal year ending June 30, 1961" and inserting in lieu thereof "by means of a current, indefinite appropriation".

(b) OPERATING EXPENSES.—No funds may be appropriated for operating expenses of the Commodity Credit Corporation except as authorized under section 2 of Public Law 87-155 to reimburse the Corporation for net realized losses.

(c) EFFECTIVE DATE.—This section and the amendment made by this section shall apply beginning with fiscal year 1988.

SEC. 1507. FEDERAL CROP INSURANCE.

It is the sense of Congress that, in carrying out the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation—

(1) should not be required to assume 100 percent of all loss adjustments in the Federal crop insurance program; and

(2) should assume and perform the loss adjustment obligations of a reinsured company if the Corporation determines that such company's loss adjustment performance and practices are not carried out in accordance with the applicable reinsurance agreement.

SEC. 1508. ETHANOL USAGE.

(a) FINDINGS.—Congress finds that—

(1) the United States is dependent for a large and growing share of its energy needs on the Middle East at a time when world petroleum reserves are declining;

(2) the burning of gasoline causes pollution;

(3) ethanol can be blended with gasoline to produce a cleaner source of fuel;

(4) ethanol can be produced from grain, a renewable resource that is in considerable surplus in the United States;

(5) the conversion of grain into ethanol would reduce farm program costs and grain surpluses; and

(6) increasing the quantity of motor fuels that contain at least 10 percent ethanol from current levels to 50 percent by 1992 would create thousands of new jobs in ethanol production facilities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Administrator of the Environmental Protection Agency should use authority provided under the Clean Air Act (42 U.S.C. 7401 et seq.) to require greater use of ethanol as motor fuel.

SEC. 1509. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

The Food Stamp Act of 1977 is amended by adding after section 20 (7 U.S.C. 2029) the following new section:

"SEC. 21. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

"(a) IN GENERAL.—Upon written application of the State of Washington (in this section referred to as the 'State') and after the approval of such application by the Secretary, the State may conduct a Family Independence Demonstration Project (in this section referred to as the 'Project') in all or in part of the State in accordance with this section to determine whether the Project, as an alternative to providing benefits under the food stamp program, would more effectively break the cycle of poverty and would provide families with opportunities for economic independence and strengthened family functioning.

"(b) NATURE OF PROJECT.—In an application submitted under subsection (a), the State shall provide the following:

"(1) Except as provided in this section, the provisions of chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall apply to the operation of the Project.

"(2) All of the following terms and conditions shall be in effect under the Project:

"(A)(i) Except as provided in clause (ii), individuals with respect to whom benefits may be paid under part A of title IV of the Social Security Act, and such other individuals as are included in the Project pursuant to chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall be eligible to participate in the Project in lieu of receiving benefits under the food stamp program and cash assistance under any other Federal program covered by the Project.

"(ii) Individuals who receive only child care or medical benefits under the Project shall not be eligible to receive food assistance under the Project. Such individuals may receive coupons under the food stamp program if eligible.

"(B) Individuals who participate in the Project shall receive for each month an amount of cash assistance that is not less than the total value of the assistance such individuals would otherwise receive, in the aggregate, under the food stamp program and any cash-assistance Federal program covered by the Project for such month, including income and resource exclusions and deductions, and benefit levels.

"(C)(i) The State may provide a standard benefit for food assistance under the Project, except that individuals who participate in the Project shall receive as food assistance for a month an amount of cash that is not less than the value of the assistance such individuals would otherwise receive under the food stamp program.

"(ii) The State may provide a cash benefit for food assistance equal to the value of the thrifty food plan.

"(D) Each month participants in the Project shall be notified by the State of the amount of Project assistance that is provided as food assistance for such month.

"(E) The State shall have a program to require participants to engage in employment and training activities carried out under

chapter 434 of the 1987 Washington Laws, as enacted in May 1987.[6]

"(F) Food assistance shall be provided under the Project—

"(i) to any individual who is accepted for participation in the Project, not later than 30 days after such individual applies to participate in the Project;

"(ii) to any participant for the period that begins on the date such participant applies to participate in the Project, except that the amount of such assistance shall be reduced to reflect the pro rata value of any coupons received under the food stamp program for such period for the benefit of such participant; and

"(iii) until—

"(I) the participant's cash assistance under the Project is terminated;

"(II) such participant is informed of such termination and is advised of the eligibility requirements for participation in the food stamp program;

"(III) the State determines whether such participant will be eligible to receive coupons as a member of a household under the food stamp program; and

"(IV) coupons under the food stamp program are received by such participant if such participant will be eligible to receive coupons as a member of a household under the food stamp program.

"(G)(i)[7] Paragraphs (1)(B), (8), (10), and (19) of section 11(e) shall apply with respect to the participants in the Project in the same manner as such paragraphs apply with respect to participants in the food stamp program.

"(ii) Each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to participate in the Project shall receive and shall be permitted to file on the same day that such contact is first made, an application form to participate in the Project.

"(iii) The Project shall provide for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, the elderly persons, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person.

"(iv) An individual who applies to participate in the Project may be represented by another person in the review process if the other person has been clearly designated as the representative of such individual for that purpose, by such individual or the spouse of such individual, and, in the case of the review process, the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

"(I) restrict the number of individuals who may be represented by such person; and

"(II) otherwise establish criteria and verification standards for representation under this clause.

"(v) The State shall provide a method for reviewing applications to participate in the Project submitted by, and distributing food assistance under the Project to, individuals who do not reside in permanent dwellings or who have no fixed mailing address. In carrying out the preceding sentence, the State shall take such steps as are necessary to ensure that participation in the Project is limited to eligible individuals.

"(3) An assurance that the State will allow any individual to apply to participate in the food stamp program without applying to participate in the Project.

"(4) An assurance that the cost of food assistance provided under the Project will not be such that the aggregate amount of payments made under this section by the Secretary to the State over the period of the Project will exceed the sum of—

"(A) the anticipated aggregate value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program; and

"(B) the portion of the administrative costs for which the State would have received reimbursement under—

"(i) subsections (a) and (g) of section 16 (without regard to the first proviso to such subsection (g)) if the individuals who participated in the Project had participated instead in the food stamp program; and

"(ii) section 16(h) if the individuals who participated in the Project had participated in an employment and training program under section 6(d)(4);

except that this paragraph shall not be construed to prevent the State from claiming payments for additional households that would qualify for benefits under the food stamp program in the absence of a cash out of such benefits as a result of changes in economic, demographic, and other conditions in the State or a subsequent change in the benefit levels approved by the State legislature.

"(5) An assurance that the State will continue to carry out the food stamp program while the State carries out the Project.

"(6) If there is a change in existing State law that would eliminate guaranteed benefits or reduce the rights of applicants or participants under this section during, or as a result of participation in, the Project, the Project shall be terminated.

"(7) An assurance that the Project shall include procedures and due process guarantees no less beneficial than those which are available under Federal law and under State law to participants in the food stamp program.

"(8)(A) An assurance that, except as provided in subparagraph (B), the State will carry out the Project during a 5-year period beginning on the date the first individual is approved for participation in the Project.

"(B) The Project may be terminated 180 days after—

"(i) the State gives notice to the Secretary that it intends to terminate the Project; or

"(ii) the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section.

"(c) FUNDING.—If an application submitted under subsection (a) by the State complies with the requirements specified in subsection (b), then the Secretary shall—

"(1) approve such application; and

"(2) from funds appropriated under this Act, pay the State for—

"(A) the actual cost of the food assistance provided under the Project; and

"(B) the percentage of the administrative costs incurred by the State to provide food assistance under the Project that is equal to the percentage of the State's aggregate administrative costs incurred in operating the food stamp program in the most recent fiscal year for which data are available, that was paid under subsections (a), (g), and (h) of section 16 of this Act.

"(d)(1) PROJECT APPLICATION.—Unless and until an application to participate in the Project is approved, and food assistance under the Project is made available to the applicant—

"(A) such application shall also be treated as an application to participate in the food stamp program; and

"(B) section 11(e)(9) shall apply with respect to such application.

"(2) Coupons provided under the food stamp program with respect to an individual who—

"(A) is participating in such program; and

"(B) applies to participate in the Project;

may not be reduced or terminated because such individual applies to participate in the Project.

"(3) For purposes of the food stamp program, individuals who participate in the Project shall not be considered to be members of a household during the period of such participation.

"(e) WAIVER.—The Secretary shall (with respect to the Project) waive compliance with any requirement contained in this Act (other than this section) that (if applied) would prevent the State from carrying out the Project or effectively achieving its purpose.

"(f) CONSTRUCTION.—For purposes of any other Federal, State or local law—

"(1) cash assistance provided under the Project that represents food assistance shall be treated in the same manner as coupons provided under the food stamp program are treated; and

[8] "(2) participants in the program who receive food assistance under the Project shall be treated in the same manner as recipients of coupons under the food stamp program are treated.

"(g) PROJECT AUDITS.—The Comptroller General of the United States shall—

"(1) conduct periodic audits of the operation of the Project to verify the amounts payable to the State from time to time under subsection (b)(4); and

"(2) submit to the Secretary of Agriculture, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of each such audit.

"(h) EVALUATION.—With funds appropriated under section 18(a)(1), the Secretary shall conduct, in consultation with the Secretary of Health and Human Services, an evaluation of the Project.".

TITLE II—NATIONAL ECONOMIC COMMISSION

SEC. 2101. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the National Economic Commission (in this subtitle referred to as the "Commission").

SEC. 2102. MEMBERSHIP OF COMMISSION.

(a) APPOINTMENT.—The Commission shall be initially composed of 12 members, appointed not later than March 1, 1988. After the meeting of the Presidential Electors in December 1988, the Commission shall be expanded to 14 members. The members shall be as follows:

(1) 2 citizens of the United States, appointed by the President.

(2) 1 Senator and 2 citizens of the United States, appointed by the President pro tem-

[6] Copy read "May, 1987.".

[7] Copy read "'(H)(I)".

[8] Copy had wrong indention for paragraph "'(2)".

pore of the Senate upon the recommendations of the Majority Leader of the Senate.

(3) 1 Senator and 1 citizen of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate.

(4) 1 Member of the House of Representatives and 2 citizens of the United States, appointed by the Speaker of the House of Representatives.

(5) 1 Member of the House of Representatives and 1 citizen of the United States, appointed by the Minority Leader of the House of Representatives.

(6) 2 citizens of the United States, 1 of whom is a Democrat and 1 of whom is a Republican, appointed by the President-elect as established by the allocation of electoral college votes in the Presidential election of November 8, 1988.

(b) ADDITIONAL QUALIFICATIONS.—

(1) Individuals appointed under subsection (a)(1) may be officers or employees of the Executive Branch or may be private citizens.

(2) Individuals who are not Members of the Congress, and are appointed under paragraphs (2) through (6) of subsection (a) shall be individuals who—

(A) are leaders of business or labor, distinguished academics, State or local government officials, or other individuals with distinctive qualifications or experience; and

(B) are not officers or employees of the United States.

(c) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(f) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(g) PROHIBITION OF ADDITIONAL PAY.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission. Members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

SEC. 2103. FUNCTIONS OF COMMISSION.

(a) SPECIFIC RECOMMENDATIONS.—The Commission shall make specific recommendations regarding the following:

(1) Methods to reduce the Federal budget deficit while promoting economic growth and encouraging saving and capital formation.

(2) A means of ensuring that the burden of achieving the Federal budget deficit reduction goals of the United States does not undermine economic growth and is equitably distributed and not borne disproportionately by any one economic group, social group, region or State.

(b) FINAL REPORT.—

(1) Subject to section 2103(b)(3), the Commission shall submit to the President and to the Congress on March 1, 1989, a final report which shall contain a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action that the Commission considers advisable.

(2) Any recommendation may be made by the Commission to the President and to the Congress only if adopted by a majority vote of the members of the Commission who are present and voting.

(3) On February 1, 1989, the President may issue an order extending the date for submission of the final report to September 1, 1989.

SEC. 2104. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this subtitle, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this subtitle. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(2) Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a non-reimburseable basis, to assist the Commission in carrying out its duties under this subtitle, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section 2105(b).

(c) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(d) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this subtitle, subject to the limitation on total expenses set forth in section 2105(b).

(e) STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson of the Commission (subject to the limitation on total expenses set forth in section 2105(b)) shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(f) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 2105. EXPENSES OF COMMISSION.

(a) IN GENERAL.—Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(b) LIMITATION.—The total expenses of the Commission shall not exceed $1,000,000.

(c) GAO AUDIT.—Prior to the termination of the Commission, pursuant to section 2106, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine that the limitation on expenses has been met, and shall include its determination in an opinion to be included in the report of the Commission.

SEC. 2106. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits its report.

TITLE III—EDUCATION PROGRAMS

Subtitle A—Guaranteed Student Loan Program Savings

SEC. 3001. RECOVERY OF EXCESS CASH RESERVES ACCUMULATED UNDER THE GUARANTEED STUDENT LOAN PROGRAM.

(a) IN GENERAL.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended by adding at the end thereof the following new subsection:

"(e) REDUCTION OF EXCESS CASH RESERVES.—

"(1) LIMITATION ON MAXIMUM CASH RESERVES.—A guaranty agency shall not accumulate cash reserves in excess of the greater of—

"(A) 40 percent of the total amount paid by that agency on insurance claims during the preceding fiscal year;

"(B) 0.3 percent of original principal amount of loans that are insured by that agency and that are outstanding at the end of such preceding fiscal year;

"(C) an amount which, when combined with all other parts of total agency reserves, equals 0.4 percent of such original principal amount;

"(D) $500,000; or

"(E) the amount required to comply with the reserve requirements of a State law as in effect on October 17, 1986.

"(2) RECOVERY OF EXCESS CASH RESERVES.—The Secretary shall, not later than March 31, 1988, determine for each guaranty agency the maximum cash reserve permitted under paragraph (1) for fiscal year 1986. Subject to paragraphs (3) and (4), if the Secretary determines that any guaranty agency had, at the end of fiscal year 1986, a cash reserve that exceeded such maximum, the Secretary shall direct the agency to eliminate such excess by any one or more of the following methods, as selected by the guaranty agency:

"(A) by repaying any advances to such agency made by the Secretary under this section that are not required to be repaid under subsection (d);

"(B) by withholding and canceling claims for reimbursement otherwise payable under section 428(c)(1);

"(C) by reducing the amount of payments for which application will be made by such agency under section 428(f); or

"(D) by any other method of reducing payments from or increasing payments to the Federal Government, including payment of additional reinsurance fees in addi-

tion to the fees required by section 428(c)(9), as proposed by the agency and agreed to by the Secretary.

"(3) APPEALS BASED ON SPECIAL CIRCUMSTANCES.—(A) If the Secretary determines, on the basis of an application from a guaranty agency, that—

"(i) the agency's financial position has deteriorated significantly since the end of the preceding fiscal year;

"(ii) significant changes in the economic circumstances (such as a change in agency current cash reserves) or the loan insurance program render the limitations of paragraph (1) inadequate for the continued functioning of the agency; or

"(iii) in recovering funds as required by this subsection, a guaranty agency would be compelled to violate contractual obligations existing on the date of enactment of this subsection that require a specified level of reserve funds to be maintained by such agency;

the Secretary may waive, in whole or in part, the imposition of the remedies required by paragraph (2) for such agency.

"(B) The Secretary shall respond to request for waivers from guaranty agencies in an expedited manner and, except for unusual circumstances or with the consent of the guaranty agency, shall resolve such request within 6 weeks of submission.

"(4) RECOVERY LIMITS.—The Secretary shall not require a total reduction of cash reserves for all guaranty agencies in excess of $250,000,000 during fiscal year 1988. If the total of cash reserves of all guaranty agencies exceeds the maximum amounts permitted under paragraph (1) by more than $250,000,000, the Secretary shall ratably reduce the amounts that guaranty agencies are directed to eliminate under paragraph (2), so that the total excess cash reserves to be eliminated equals $250,000,000.

"(5) DEFINITIONS.—As used in this subsection—

"(A) the 'cash reserves' for any guaranty agency for any fiscal year are equal to the agency's cumulative cash receipts less the agency's cumulative cash disbursements at the end of such fiscal year;

"(B) the 'total reserves' for any guaranty agency for any fiscal year are equal to the agency's cash reserves plus the agency's cumulative accounts receivable less the agency's accounts payable, as of the end of such fiscal year;

"(C) the term 'cumulative cash receipts' includes such receipts as insurance premiums, Federal reinsurance payments, and collections on defaulted loans;

"(D) the term 'cumulative cash disbursements' includes such disbursements as payments for default claims, repayment of Federal advances, transfers to other State activities, and payment of collection costs and other operating costs;

"(E) the term 'accounts receivable' includes Federal reinsurance payments and administrative cost allowances owed but not yet paid to the guaranty agency, as of the end of a fiscal year; and

"(F) the term 'accounts payable' includes collections and reinsurance fees due (but not paid) to the Department of Education, as of the end of a fiscal year.".

(b) CONFORMING AMENDMENTS.—

(1) The second sentence of section 428(c)(1)(A) of such Act (20 U.S.C. 1078(c)(1)(A)) is amended by striking out "shall be deemed" and inserting "shall, subject to section 422(e), be deemed".

(2) Section 428(c)(9)(A) of such Act is amended by striking out "an amount equal to" and inserting "an amount, subject to section 422(e), equal to".

(3) The second sentence of section 428(f)(1)(B) of such Act is amended by striking out "shall be deemed" and inserting "shall, subject to section 422(e), be deemed".

SEC. 3002. REPEAL.

(a) IN GENERAL.—Subsection (e) of section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is repealed on September 30, 1989.

(b) CONFORMING AMENDMENTS.—

(1) Effective September 30, 1989, the second sentence of section 428(c)(1)(A) of such Act (20 U.S.C. 1078(c)(1)(A)) is amended by striking out "shall, subject to section 422(e), be deemed" and inserting "shall be deemed".

(2) Effective September 30, 1989, section 428(c)(9)(A) of such Act is amended by striking out "an amount, subject to section 422(e), equal to" and inserting "an amount equal to".

(3) Effective September 30, 1989, the second sentence of section 428(f)(1)(B) of such Act is amended by striking out "shall, subject to section 422(e), be deemed" and inserting "shall be deemed".

SEC. 3003. INFORMATION ON DEFAULTS REQUIRED.

(a) GENERAL RULE.—The first sentence of section 428(k)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078(k)(1)) is amended—

(1) by striking out "In" and inserting in lieu thereof "Notwithstanding any other provision of law, in"; and

(2) by striking out "may" and inserting in lieu thereof "shall".

(b) CONFORMING AMENDMENT.—The second sentence of section 428(k)(1) of such Act is amended by striking out "may" and inserting in lieu thereof "shall".

Subtitle B—Sale of College Facilities and Housing Loans

SEC. 3101. SALE OF COLLEGE FACILITIES AND HOUSING LOANS.

Section 783 of the Higher Education Act of 1965 (20 U.S.C. 1132i-2) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this title, after September 30, 1988, the Secretary shall not sell any of such obligations. Any agreement providing for delaying payment (with respect to obligations sold) until after September 30, 1988, or for delaying delivery of such obligations or delaying taking other actions in furtherance of such a sale until after such date, shall be considered to be a violation of the preceding sentence.".

TITLE IV—MEDICARE, MEDICAID, AND OTHER HEALTH-RELATED PROGRAMS

TABLE OF CONTENTS OF TITLE

PART 1—RELATING ONLY TO PART A

SEC. 4001. EXTENSION OF REDUCTIONS UNDER SEQUESTER ORDER.

Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through—

[9] Copy read "Sec. 4052.".
[10] Copy read "Sec. 4053.".
[11] Copy read "Sec. 4054.".
[12] Copy read "Sec. 4055.".
[13] Copy read "peer".
[14] Copy read "states", and "state", respectively.
[15] Copy read "california.".
[16] Copy read "northern mariana islands.".

(1) March 31, 1988, with respect to payments for inpatient hospital services under such title (including payments under section 1886 of such title attributable or allocated to part A of such title); and

(2) December 31, 1987, with respect to payments for other items and services under part A of such title.

SEC. 4002. BASIC HOSPITAL PROSPECTIVE PAYMENT RATES.

(a) BASIC UPDATE FACTOR FOR PPS HOSPITALS.—Clause (i) of section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended by striking "and for fiscal year 1988" in subclause (II) and all that follows through the end of such clause and inserting after such subclause the following:

"(III) for fiscal year 1988, 3.0 percent for hospitals located in a rural area, 1.5 percent for hospitals located in a large urban area (as defined in subsection (d)(2)(D)), and 1.0 percent for other hospitals,

"(IV) for fiscal year 1989, the market basket percentage increase minus 1.5 percent for hospitals located in a rural area, the market basket percentage increase minus 2.0 percent for hospitals located in a large urban area, and the market basket percentage increase minus 2.5 percent for other hospitals, and

"(V) for fiscal year 1990 and each subsequent fiscal year, the market basket percentage for hospitals in all areas.".

(b) LARGE URBAN AREA DEFINED.—The second sentence of section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D))[16a] is amended by inserting after "under subsection (a) by regulation;" the following: "the term 'large urban area' means, with respect to a fiscal year, such an urban area which the Secretary determines (in the publication described in subsection (e)(5)(B) before the fiscal year) has a population of more than 1,000,000 (as determined by the Secretary based on the most recent available population data published by the Bureau of the Census);".

[16a] Copy read "(42 U.S.C. 1395www(d)(2)(D))".

(c) ADJUSTMENT FOR HOSPITALS IN LARGE URBAN AREAS OR IN RURAL AREAS.—

(1) IN GENERAL.—Section 1886(d)(3) of such Act (42 U.S.C. 1395ww(d)(3)) is amended—

(A) in the matter before subparagraph (A), by striking "urban or rural areas" and inserting "large urban, other urban, or rural areas";

(B) in first sentence of subparagraph (A)—

(i) by striking "The Secretary" and inserting "(i) For discharges occuring in a fiscal year beginning before October 1, 1987, the Secretary",

(ii) by striking "each of fiscal years 1985, 1986, 1987, and 1988" and inserting "the fiscal year involved", and

(iii) by striking ", and adjusted for subsequent fiscal years in accordance with the final determination of the Secretary under subsection (e)(4), and adjusted to reflect the most recent case-mix data available,";

(C) by adding at the end of subparagraph (A) the following new clauses:

"(ii) For discharges occurring in a fiscal year beginning on or after October 1, 1987, the Secretary shall compute an average standardized amount for hospitals located in a large urban area, for hospitals located in a rural area, and for hospitals located in urban areas, within the United States and within each region, equal to the respective average standardized amount computed for the previous fiscal year under this subparagraph increased by the applicable percentage increase under subsection (b)(3)(B)(i) with respect to hospitals located in the respective areas for the fiscal year involved.

"(iii) Average standardized amounts computed under this paragraph shall be adjusted to reflect the most recent case-mix data available."; and

(D) in subparagraph (D)—

(i) by striking "URBAN AND RURAL HOSPITALS" in the heading and inserting "HOSPITALS IN DIFFERENT AREAS",

(ii) in clause (i), by inserting "(or, for discharges occurring on or after April 1, 1988, in a large urban area or other urban area)" after "urban area" the first place it appears, and

(iii) in clause (i), by inserting "such" before "an urban area" the second place it appears.

(2) CONFORMING AMENDMENTS.—Section 1886(d)(9)(A) of such Act (42 U.S.C. 1395ww(d)(9)(A)) is amended—

(A) in clause (ii)(I), by striking "an urban area, and" and inserting "a large urban area,";

(B) by redesignating subclause (II) of clause (ii) as subclause (III); and

(C) by inserting after subclause (I) of clause (ii) the following new subclause:

"(II) such rate for hospitals located in other urban areas, and".

(d) ESTABLISHMENT OF REGIONAL FLOOR.—Section 1886(d)(1)(A)(iii) of such Act (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by inserting before the period at the end the following: ", or, if greater for discharges occurring during the period beginning on April 1, 1988, and ending on September 30, 1990, the sum of (I) 85 percent of the national adjusted DRG prospective payment rate determined under paragraph (3) for such discharges, and (II) 15 percent of the regional adjusted DRG prospective payment rate determined under such paragraph".

(e) UPDATE FOR PPS-EXEMPT HOSPITALS.—Section 1886(b)(3)(B) of such Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in clause (i), by striking "subparagraph (A) for 12-month cost reporting periods beginning during a fiscal year and for purposes of",

(2) in clause (ii), by striking "(ii) For purposes of clause (i)" and inserting "(iii) For purposes of this subparagraph", and

(3) by inserting after clause (i) the following new clause:

"(ii) For purposes of subparagraph (A), the 'applicable percentage increase' for 12-month cost reporting periods beginning during—

"(I) fiscal year 1986, is 0.5 percent,

"(II) fiscal year 1987, is 1.15 percent,

"(III) fiscal year 1988, is the market basket percentage increase minus 2.0 percentage points, and

"(IV) subsequent fiscal years is the market basket percentage increase.".

(f) RELATED CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Section 1886 of such Act (42 U.S.C. 1395ww) is further amended—

(A) by adding at the end of subsection (d)(2)(D) the following new sentence: "For purposes of payment under this subsection, a hospital is considered to be located in an urban area or large urban area, respectively, if the hospital is paid under this subsection at the rate for hospitals located in such an area.";

(B) in subsection (e)(3)(B), by striking "or determine";

(C) in subsection (e)(4)—

(i) by striking "for fiscal year 1988" and inserting "for each fiscal year (beginning with fiscal year 1988)",

(ii) by striking "and shall determine for each subsequent fiscal year" and all that follows through "fiscal year, and", and

(iii) by amending the last sentence to read as follows: "The appropriate change factor may be different for all large urban subsection (d) hospitals, other urban subsection (d) hospitals, urban subsection (d) Puerto Rico hospitals, rural subsection (d) hospitals, and rural subsection (d) Puerto Rico hospitals, and all other hospitals and units not paid under subsection (d), and may vary among such other hospitals and units."; and

(D) in paragraph (5), by striking "or determination" each place it appears.

(2) Subsection (a)(1)(B)(ii) of section 107 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) is amended, effective as of the date of the enactment of such Act, by inserting ", the target percentage and DRG percentage shall be those specified in subsection (d)(1)(C)(iv) of such section, and the applicable percentage increase in a hospital's target amount shall be deemed to be 0 percent" before the period at the end.

(g) EFFECTIVE DATES.—

(1) PPS HOSPITALS, DRG PORTION OF PAYMENT.—In the case of a subsection (d) hospital (as defined in paragraph (6))—

(A) the amendments made by subsections (a) and (c) shall apply to payments made under section 1886(a)(1)(A)(iii) of the Social Security Act on the basis of discharges occurring on or after April 1, 1988, and

(B) for discharges occurring on or after October 1, 1988, the applicable percentage increase (described in section 1886(d)(3)(B) of such Act)[17] for discharges occurring during fiscal year 1987 is deemed to have been such percentage increase as amended by subsection (a).

(2) PPS SOLE COMMUNITY HOSPITALS, HOSPITAL SPECIFIC PORTION OF PAYMENT.—In the case of a subsection (d) hospital which receives payments made under section 1886(d)(1)(A) of the Social Security Act because it is a sole community hospital—

(A) the amendment made by subsections (a) and (c) shall apply to payments under section 1886(d)(1)(A)(ii)(I) of the Social Security Act made on the basis of discharges occurring during a cost reporting period of a hospital, for the hospital's cost reporting period beginning on or after October 1, 1987;

(B) notwithstanding subparagraph (A), for cost reporting period beginning during fiscal year 1988, the applicable percentage increase (as defined in section 1886(d)(3)(B) of such Act) for the—

(i) first 51 days of the cost reporting period shall be 0 percent,

(ii) next 132 days of such period shall be 2.7 percent, and

(iii) remainder of such period of the cost reporting period shall be the applicable percentage increase (as so defined, as amended by subsection (a)); and

(C) for cost reporting periods beginning on or after October 1, 1988, the applicable percentage increase (as so defined) with respect to the previous cost reporting period shall be deemed to have been the applicable percentage increase (as so defined, as amended by subsection (a)).

(3) PPS-EXEMPT HOSPITALS.—In the case of a hospital that is not a subsection (d) hospital—

(A) the amendments made by subsection (e) shall apply to cost reporting periods beginning on or after October 1, 1987;

(B) notwithstanding subparagraph (A), for the hospital's cost reporting period beginning during fiscal year 1988, payment under title XVIII of the Social Security Act shall be made as though the applicable percentage increase described in section 1886(b)(3)(B) of such Act were equal to the product of 2.7 percent and the ratio of 315 to 366; and

(C) for cost reporting periods beginning on or after October 1, 1988, the applicable percentage increase (as so defined) with respect to the cost reporting period beginning during fiscal year 1988 shall be deemed to have been 2.7 percent.

(4) DEFINITION, REGIONAL FLOOR, AND TECHNICAL AND CONFORMING AMENDMENTS.—The amendments made by subsections (b) and (d) and paragraphs (1) and (2) of subsection (f) shall take effect on the date of the enactment of this Act.

(5) TRANSITION FOR LARGE URBAN AREA RATES.—In computing the average standardized amount for hospitals located in a large urban area or other urban area under section 1886(d)(3)(A)(ii) of the Social Security Act (as amended by subsection (c)) for fiscal year 1988, the reference to "the respective average standardized amount computed for the previous fiscal year under this subparagraph" is deemed a reference to the average standardized amount computed for hospitals located in an urban area for the 51-day period beginning on October 1, 1987.

(6) DEFINITION.—In this subsection, the term "subsection (d) hospital" has the meaning given such term in section 1886(d)(10)(B) of the Social Security Act.

SEC. 4003. INCREASE IN DISPROPORTIONATE SHARE ADJUSTMENT AND REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.—

(1) Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

[17] Copy read "Act))".

(A) in subclause (I), by striking "2" and inserting in lieu thereof "1.89"; and

(B) in subclause (II), by striking "1.5" and inserting in lieu thereof "1.43".

(2) Section 1886(d)(3)(C)(ii) of such Act (42 U.S.C. 1395ww(d)(3)(C)(ii)) is amended by inserting "and by section 4003(a)(1) of the Omnibus Budget Reconciliation Act of 1987" after "1985" each place it appears in subclauses (I) and (II).

(b) INCREASE IN DISPROPORTIONATE SHARE ADJUSTMENT.—Section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(B))—

(1) in clause (iii), by striking "15 percent" and inserting "25 percent", and

(2) in clause (iv)(I), by striking "the lesser of 15 percent, or".

(c) EXTENSION OF DISPROPORTIONATE SHARE ADJUSTMENT.—Sections 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)), 1886(d)(3)(C)(ii)(I) (42 U.S.C. 1395ww(d)(3)(C)(ii)(I)), 1886(d)(3)(C)(ii)(II) (42 U.S.C. 1395ww(d)(3)(C)(ii)(II)), 1886(d)(5)(B)(ii)(I) (42 U.S.C. 1395ww(d)(5)(B)(ii)(I)), 1886(d)(5)(B)(ii)(II) (42 U.S.C. 1395ww(d)(5)(B)(ii)(II)), and 1886(d)(5)(F)(i) (42 U.S.C. 1395ww(d)(5)(F)(i)) of the Social Security Act are each amended by striking "1989" and inserting in lieu thereof "1990".

(d) SPECIAL RULE.—In the case of a hospital which—

(1) consists of 2 inpatient hospital facilities which are more than 4 miles apart and each of which is in a separate political jurisdiction within the same State and one of which meets the criteria under section 1886(d)(5)(F) of the Social Security Act for serving a significantly disproportionate number of low-income patients as if that facility were a separate hospital; and

(2) receives payments for inpatient hospital services under title XVIII of the Social Security Act which are less than the hospital's reasonable costs,

the Secretary of Health and Human Services, upon application by the hospital, may treat each of the facilities of the hospital as separate hospitals for purposes of applying section 1886(d)(5)(F) of the Social Security Act, for discharges occurring on or after October 1, 1988.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for discharges occurring on or after October 1, 1988.

SEC. 4004. PROVISIONS RELATING TO WAGE INDEX.

(a) SURVEY.—Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended by adding at the end the following: "Not later than October 1, 1990 (and at least every 36 months thereafter), the Secretary shall update the factor under the preceding sentence on the basis of a survey conducted by the Secretary (and updated as appropriate) of the wages and wage-related costs of subsection (d) hospitals in the United States. To the extent determined feasible by the Secretary, such survey shall measure the earnings and paid hours of employment by occupational category and shall exclude data with respect to the wages and wage-related costs incurred in furnishing skilled nursing facility services.".

(b) CLINIC HOSPITAL WAGE INDICES.—In calculating the wage index under section 1886(d) of the Social Security Act for purposes of making payment adjustments after September 30, 1988, as required under paragraphs (2)(H) and (3)(E) of such section, in the case of any institution which received the waiver specified in section 602(k) of the Social Security Amendments of 1983, the Secretary of Health and Human Services shall include wage costs paid to related organization employees directly involved in the delivery and administration of care provided by the related organization to hospital inpatients. For purposes of the preceding sentence, the term "wage costs" does not include costs of overhead or home office administrative salaries or any costs that are not incurred in the hospital's Metropolitan Statistical Area.

SEC. 4005. RURAL HOSPITALS.

(a) REVISION OF STANDARDS FOR INCLUDING A RURAL COUNTY IN AN URBAN AREA.—

(1) TREATING CERTAIN RURAL HOSPITALS ADJACENT TO URBAN AREAS AS URBAN HOSPITALS.—Section 1886(d)(8) of the Social Security Act (42 U.S.C. 1395ww(d)(8))—

(A) by redesignating clauses (i) and (ii) of subparagraphs (A) and (B) as subclauses (I) and (II), respectively,

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(C) by inserting "(A)" after "(8)", and

(D) by adding at the end the following new subparagraph:

"(B) The Secretary shall treat a hospital located in a rural county adjacent to one or more urban areas as being located in the urban metropolitan statistical area to which the greatest number of workers in the county commute, if—

"(i) the rural county would otherwise be considered part of an urban area but for the fact that the rural county does not meet the standard relating to the rate of commutation between the rural county and the central county or counties of any adjacent urban area; and

"(ii) either (I) the number of residents of the rural county who commute for employment to the central county or counties of any adjacent urban area is equal to at least 15 percent of the number of residents of the rural county who are employed, or (II) the sum of the number of residents of the rural county who commute for employment to the central county or counties of any adjacent urban area and the number of residents of any adjacent urban area who commute for employment to the rural county is at least equal to 20 percent of the number of residents of the rural county who are employed.

"(C) The Secretary shall make a proportional adjustment in the standardized amount determined under paragraph (3) for hospitals located in an urban area to assure that the provisions of subparagraph (B) do not result in aggregate payments under this section that are greater or less than those that would otherwise be made. The Secretary shall make such adjustment in payments under this section to hospitals located in rural areas as are necessary to assure that the aggregate of payments to rural hospitals not affected by subparagraph (B) are not changed as a result of the application of subparagraph (B).".

(2) LOCATION OF HOSPITAL.—For purposes of section 1886 of the Social Security Act, Watertown Memorial Hospital in Watertown, Wisconsin is deemed to be located in Jefferson County, Wisconsin.

(3) EFFECTIVE DATE.—This section, and the amendments made by paragraph (1), shall apply to discharges occurring on or after October 1, 1988.

(b) EXPANSION OF SWING-BED PROGRAM.—

(1) EXPANSION TO HOSPITALS WITH FEWER THAN 100 BEDS.—Section 1883(b)(1) of the Social Security Act (42 U.S.C. 1395tt(b)(1)) is amended by striking "50 beds" and inserting "100 beds".

(2) REQUIREMENTS FOR HOSPITALS WITH MORE THAN 49 BEDS.—Section 1883(d) of such Act (42 U.S.C. 1395dd(d)) is amended—

(A) by inserting "(1)" after "(d)", and

(B) by adding at the end the following new paragraphs:

"(2)(A) Any agreement under this section with a hospital with more than 49 beds shall provide that no payment may be made for extended care services which are furnished to an extended care patient after the end of the 5-day period (excluding weekends and holidays) beginning on an availability date for a skilled nursing facility, unless the patient's physician certifies, within such 5-day period, that the transfer of that patient to that facility is not medically appropriate on the availability date. The Secretary shall prescribe regulations to provide for notice by skilled nursing facilities of availability dates to hospitals which have agreements under this section and which are located within the same geographic region (as defined by the Secretary).

"(B) In this paragraph:

"(i) The term 'availability date' means, with respect to an extended care patient at a hospital, any date on which a bed is available for the patient in a skilled nursing facility located within the geographic region in which the hospital is located.

"(ii) The term 'extended care patient' means an individual being furnished extended care services at a hospital pursuant to an agreement with the Secretary under this section.

"(3) In the case of an agreement for a cost reporting period under this section with a hospital that has more than 49 beds, payment may not be made in the period for patient-days of extended care services that exceed 15 percent of the product of the number of days in the period and the average number of licensed beds in the hospital in the period.".

(3) REPORT.—The Secretary of Health and Human Services shall report to Congress, not later than February 1, 1989, concerning—

(A) the proportion of admissions to hospitals for extended care services under section 1883 of the Social Security Act which are denied or approved by a peer review organization under section 1154(a)(1) of such Act, and

(B) on recommendations for methods of encouraging hospitals that—

(i) have a low occupancy rate,

(ii) are eligible to enter (but have not entered) into an agreement under section 1883 of such Act, and

(iii) are located in areas with a need for additional providers of extended care services,

to enter into such agreements.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to agreements under section 1883 of the Social Security Act entered into after March 31, 1988.

(c) PAYMENTS TO SOLE COMMUNITY HOSPITALS.—

(1) Section 1886(d)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(ii)) is amended—

(A) by striking "1988" in the second sentence and inserting "1990", and

(B) by inserting after the second sentence the following: "A subsection (d) hospital that meets the criteria for classification as a sole community hospital and otherwise qualifies for the adjustment authorized by the preceding sentence may qualify for such an adjustment without regard to the formu-

la by which payments are determined for the hospital under paragraph (1)(A).".

(2)(A) The amendments made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1987.

(B) The Secretary of Health and Human Services shall take appropriate steps to ensure that the total amount paid in a fiscal year under title XVIII of the Social Security Act by reason of the amendment made by paragraph (1)(B) does not exceed $5,000,000 in the case of fiscal year 1988 and $10,000,000 for fiscal year 1989.

(d) MEDICARE CLASSIFICATION OF RURAL REFERRAL CENTERS.—

(1) EXTENSION OF CLASSIFICATION.—

(A) IN GENERAL.—The first sentence of section 1886(d)(5)(C)(i)(I) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(i)(I)) is amended by striking "500" and inserting "275".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to discharges occurring on or after April 1, 1988.

(2) STUDY.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall provide for a study of the criteria used for the classification of hospitals as rural referral centers under section 1886(d)(5)(C)(i) of the Social Security Act. The study shall include an examination of—

(i) the extent that hospitals classified as rural referral centers receive more or less than their actual costs of providing inpatient hospital services, and

(ii) the appropriateness of providing for payment for such centers at a rate other than the rate for a hospital located in an other urban area.

(B) REPORT.—The Secretary shall report to Congress, by not later than March 1, 1989, on the study conducted under subparagraph (A) and on recommendations for the criteria that should be applied under section 1886(d)(5)(C)(i) of the Social Security Act for the classification of hospitals as rural referral centers for cost reporting periods beginning on or after October 1, 1989.

(e) GRANT PROGRAM FOR RURAL HEALTH CARE TRANSITION.—

(1) The Administrator of the Health Care Financing Administration, in consultation with the Assistant Secretary for Health (or a designee), shall establish a program of grants to assist eligible small rural hospitals and their communities in the planning and implementation of projects to modify the type and extent of services such hospitals provide in order to adjust for one or more of the following factors:

(A) Changes in clinical practice patterns.

(B) Changes in service populations.

(C) Declining demand for acute-care inpatient hospital capacity.

(D) Declining ability to provide appropriate staffing for inpatient hospitals.

(E) Increasing demand for ambulatory and emergency services.

(F) Increasing demand for appropriate integration of community health services.

(G) The need for adequate access (including appropriate transportation) to emergency care and inpatient care in areas in which a significant number of underutilized hospital beds are being eliminated.

(H) The Administrator shall submit a final report on the program to the Congress not later than 180 days after all projects receiving a grant under the program are completed.

Each demonstration project under this subsection shall demonstrate methods of strengthening the financial and managerial capability of the hospital involved to provide necessary services. Such methods may include programs of cooperation with other health care providers, of diversification in services furnished (including the provision of home health services), of physician recruitment, and of improved management systems.

(2) For purposes of this subsection, the term "eligible small rural hospital" [18] means any non-Federal, short-term general acute care hospital that—

(A) is located in a rural area (as determined in accordance with subsection (d)),

(B) has less than 100 beds, and

(C) is not for profit.

(3)(A) Any eligible small rural hospital that desires to modify the type or extent of health care services that it provides in order to adjust for one or more of the factors specified in paragraph (1) may submit an application to the Governor of the State in which it is located. The application shall specify the nature of the project proposed by the hospital, the data and information on which the project is based, and a timetable (of not more than 24 months) for completion of the project. The application shall be submitted on or before a date specified by the Administrator and shall be in such form as the Administrator may require.

(B) The Governor shall transmit any application submitted pursuant to subparagraph (A) to the Secretary not later than 30 days after it is received by the Governor, accompanied by any comments with respect to the application that the Governor deems appropriate.

(C) The Governor of a State may designate an appropriate State agency to receive and comment on applications submitted under subparagraph (A).

(4) A hospital shall be considered to be located in a rural area for purposes of this subsection if it is treated as being located in a rural area for purposes of section 1886(d)(3)(D) of the Social Security Act.

(5) In determining which hospitals making application under paragraph (3) will receive grants under this subsection, the Administrator shall take into account—

(A) any comments received under paragraph (3)(B) with respect to a proposed project;

(B) the effect that the project will have on—

(i) reducing expenditures from the Federal Hospital Insurance Trust Fund,

(ii) improving the access of medicare beneficiaries to health care of a reasonable quality;

(C) the extent to which the proposal of the hospital, using appropriate data, demonstrates an understanding of—

(i) the primary market or service area of the hospital, and

(ii) the health care needs of the elderly and disabled that are not currently being met by providers in such market or area, and

(D) the degree of coordination that may be expected between the proposed project and—

(i) other local or regional health care providers, and

(ii) community and government leaders,

as evidenced by the availability of support for the project (in cash or in kind) and other relevant factors.

[18] Copy read " 'eligible small rural hospital' ".

(6) A grant to a hospital under this subsection may not exceed $50,000 a year and may not exceed a term of 2 years.

(7)(A) Except as provided in subparagraphs (D) and (C), a hospital receiving a grant under this subsection may use the grant for any of expenses incurred in planning and implementing the project with respect to which the grant is made.

(B) A hospital receiving a grant under this subsection for a project may not use the grant to retire debt incurred with respect to any capital expenditure made prior to the date on which the project is initiated.

(C) Not more than one-third of any grant made under this subsection may be expended for capital-related costs (as defined by the Secretary for purposes of section 1886(a)(4) of the Social Security Act) of the project.

(8)(A) A hospital receiving a grant under this section shall furnish the Administrator with such information as the Administrator may require to evaluate the project with respect to which the grant is made and to ensure that the grant is expended for the purposes for which it was made.

(B) The Administrator shall report to the Congress at least once every 6 months on the program of grants established under this subsection. The report shall assess the functioning and status of the program, shall evaluate the progress made toward achieving the purposes of the program, and shall include any recommendations the Secretary may deem appropriate with respect to the program. In preparing the report, the Secretary shall solicit and include the comments and recommendations of private and public entities with an interest in rural health care.

(C) The Administrator shall submit a final report on the program to the Congress not later than 180 days after all projects receiving a grant under the program are completed.

(9) For purposes of carrying out the program of grants under this subsection, there are authorized to be appropriated from the Federal Hospital Insurance Trust Fund $15,000,000 for each of the fiscal years 1989 and 1990.

SEC. 4006. PAYMENTS FOR HOSPITAL CAPITAL.

(a) REDUCTIONS IN PAYMENTS FOR CAPITAL.—Section 1886(g)(3)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)) is amended—

(A) in clause (ii), by striking ", and" and inserting "on or after October 1, 1987, and before January 1, 1988,",

(B) by striking clause (iii) and inserting the following:

"(iii) 12 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) in fiscal year 1988, occurring on or after January 1, 1988, and

"(iv) 15 percent to portions of cost reporting periods or discharges (as the case may) be occurring during fiscal year 1989.".

(b) PROSPECTIVE PAYMENT FOR CAPITAL-RELATED COSTS.—

(1) IN GENERAL.—Paragraph (1) of section 1886(g) of such Act (42 U.S.C. 1395ww(g)) is amended to read as follows:

"(g)(1)(A) Notwithstanding section 1861(v), instead of any amounts that are otherwise payable under this title with respect to the reasonable costs of subsection (d) hospitals and subsection (d) Puerto Rico hospitals for capital-related costs of inpatient hospital services, the Secretary shall, for hospital cost reporting periods begin-

ning on or after October 1, 1991, provide for payments for such costs in accordance with a prospective payment system established by the Secretary.

"(B) Such system—

"(i) shall provide for (I) a payment on a per discharge basis, and (II) an appropriate weighting of such payment amount as relates to the classification of the discharge;

"(ii) may provide for an adjustment to take into account variations in the relative costs of capital and construction for the different types of facilities or areas in which they are located;

"(iii) may provide for such exceptions (including appropriate exceptions to reflect capital obligations) as the Secretary determines to be appropriate, and

"(iv) may provide for suitable adjustment to reflect hospital occupancy rate.

"(C) In this paragraph, the term 'capital-related costs' has the meaning given such term by the Secretary under subsection (a)(4) as of September 30, 1987, and does not include a return on equity capital.".

(2) CONFORMING AMENDMENT.—Section 1886 of such Act is amended—

(A) in subsection (a)(4), by striking "with respect to costs incurred in cost reporting periods beginning prior to October 1 of 1987 (or of such later year as the Secretary may, in his discretion, select), other capital-related costs, as defined by the Secretary" and inserting "other capital-related costs (as defined by the Secretary for periods before October 1, 1987)", and

(B) by striking subparagraph (C) of subsection (g)(3).

(3) EFFECTIVE DATES.—The amendment made by paragraph (1) shall take effect on October 1, 1987. The amendments made by paragraph (2) shall apply to cost reporting periods beginning on or after October 1, 1987.

(c) PROPAC REPORT ON ADJUSTMENT FOR HOSPITAL OCCUPANCY.—The Prospective Payment Assessment Commission shall study and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, by not later than May 1, 1988, on the suitability and feasibility of linking payment for capital-related costs under part A of title XVIII of the Social Security Act to hospital occupancy rates.

SEC. 4007. REPORTING HOSPITAL INFORMATION.

(a) DEVELOPMENT OF DATA BASE.—The Secretary of Health and Human Services (in [19] this section referred to as the "Secretary") shall develop and place into effect not later than June 1, 1989, a data base of the operating costs of inpatient hospital services with respect to all hospitals under title XVIII of the Social Security Act, which data base shall be updated at least once every quarter (and maintained for the 12-month period preceding any such update). The data base under this subsection may include data from preliminary cost reports (but the Secretary shall make available an updata analysis of the differences between preliminary and settled cost reports).

(b) REPORTING OF INFORMATION ELECTRONICALLY.—

[20] (1) Subject to paragraph (2), with respect to hospital cost reporting periods beginning on or after October 1, 1989, the Secretary shall place into effect a standardized electronic cost reporting format for hospitals under the medicare program.

(2) The Secretary may delay or waive the implementation of such format in particular instances where such implementation would result in financial hardship (in particular with respect to a small percentage of medicare volume).

(c) DEMONSTRATION PROJECT.—

(1) The Secretary of Health and Human Services shall provide for a 3-year demonstration project to develop, and determine the costs and benefits of establishing a uniform system for the reporting by medicare participating hospitals of balance sheet and information described in paragraph (2). In contracting the project, the Secretary shall require hospitals in at least 2 States, one of which maintains a uniform hospital reporting system, to report such information based on standard information established by the Secretary.

(2) The information described in this paragraph is as follows:

(A) Hospital discharges (classified by category of service and by class of primary payer).

(B) Patient days (classified by category of service and by class of primary payer).

(C) Licensed beds, staffed beds, and occupancy (by category of service).

(D) Outpatient visits (classified by class of primary payer).

(E) Inpatient charges and revenues (classified by class of primary payer).

(F) Outpatient charges and revenues (classified by class of primary payer).

(G) Inpatient and outpatient hospital expenses (by cost-center classified for operating and capital).

(H) Reasonable costs.

(I) Other income.

(J) Uncompensated care (classified by bad debt and charity care).

(K) Capital acquisitions.

(L) Capital assets.

(3) The Secretary shall develop the system under subsection (c) in a manner so as—

(A) to facilitate the submittal of the information in the report in an electronic form, and

(B) to be compatible with the needs of the medicare prospective payment system.

(4) The Secretary shall prepare and submit, to the Prospective Payment Assessment Commission, the Comptroller General, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, by not later than 45 days after the end of each calendar quarter, data collected under the system.

(5) In paragraph (3):

(A) The terms "bad debt" and "charity care" have such meanings as the Secretary establishes.

(B) The term "class" means, with respect to payers, the programs under this title VIII of the Social Security Act, a State plan approved under title XIX of such Act, other third party-payers, and self-paying individuals.

(6) [21] The Secretary shall set aside at least $1,000,000 for each of fiscal years 1988, 1989, and 1990 from existing research funds to develop the format, according to paragraph (1), and at least $2,000,000 from program operations funds for data collection and analysis, but total funds shall not exceed $15,000,000 over 3 years.

(7) [22] The Comptroller General shall analyze the adequacy of the existing system for reporting of hospital information and the costs and benefits of data reporting under the demonstration system and will recommend improvements in hospital data collection and in analysis and display of data in support of policy making.

[23] (d) CONSULTATION.—The Secretary shall consult representatives of the hospital industry in carrying out the provisions of this section.

SEC. 4008. OTHER PROVISIONS RELATING TO PAYMENT FOR INPATIENT HOSPITAL SERVICES.

(a) MASSACHUSETTS MEDICARE REPAYMENT.—The Secretary of Health and Human Services shall not, on or after the date of the enactment of this Act, and before January 1, 1989, recoup from, or otherwise reduce payments to, hospitals in the State of Massachusetts because of alleged overpayments to such hospitals under part A of title XVIII of the Social Security Act which occurred during the period of the statewide hospital reimbursement demonstration project conducted in that State, between October 1, 1982, and June 30, 1986, under section 402 of the Social Security Amendments of 1967 and section 222 of the Social Security Amendments of 1972.

(b) CLARIFICATION OF SECTION 1814(b) STATE WAIVER AUTHORITY.—

(1) APPLICATION OF AGGREGATE TEST.—Section 1814(b)(3)(B) of the Social Security Act (42 U.S.C. 1395f(b)(3)(B)) is amended by striking "rate of increase for the previous three-year period" and inserting "aggregate rate of increase from October 1, 1983, to the most recent date for which annual data are available".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) CONTINUATION OF BAD DEBT RECOGNITION FOR HOSPITAL SERVICES.—In making payments to hospitals under title XVIII of the Social Security Act, the Secretary of Health and Human Services shall not make any change in the policy in effect on August 1, 1987, with respect to payment under title XVIII of the Social Security Act to providers of service for reasonable costs relating to unrecovered costs associated with unpaid deductible and coinsurance amounts incurred under such title (including criteria for what constitutes a reasonable collection effort).

(d) HOSPITAL OUTLIER PAYMENTS AND POLICY.—

(1) INCREASE IN OUTLIER PAYMENTS FOR BURN CENTER DRGS.—

(A) IN GENERAL.—For discharges classified in diagnosis-related groups relating to burn cases and occurring on or after April 1, 1988, and before October 1, 1989, the marginal cost of care permitted by the Secretary of Health and Human Services under section 1886(d)(5)(A)(iii) of the Social Security Act shall be 90 percent of the appropriate per diem cost of care or 90 percent of the cost for cost outliers.

(B) BUDGET NEUTRALITY.—Subparagraph (A) shall be implemented in a manner that ensures that total payments under section 1886 of the Social Security Act are not increased or decreased by reason of the adjustments required by such subparagraph.

(2) LIMITATION ON CHANGES IN OUTLIER REGULATIONS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, except as required to implement specific provisions required

[19] Copy read "Services, (in".

[20] Copy read "ELECTRONICALLY.—Subject".

[21] Copy read "(7)".

[22] Copy read "(8)".

[23] "(d)" Paragraph had wrong indention.

under statute, the Secretary of Health and Human Services is not authorized to issue in final form, after the date of the enactment of this Act and before September 1, 1988, any final regulation which changes the method of payment for outlier cases under section 1886(d)(5)(A) of the Social Security Act.

(B) PROPAC[24] REPORT.—The chairman of the Prospective Payment Assessment Commission shall report to the Congress and the Secretary of Health and Human Services, by not later than June 1, 1988, on the method of payment for outlier cases under such section and providing more adequate and appropriate payments with respect to burn outlier cases.

(3) REPORT ON OUTLIER PAYMENTS.—The Secretary of Health and Human Services shall include in the annual report submitted to the Congress pursuant to section 1875(b) of the Social Security Act a comparison with respect to hospitals located in an urban area and hospitals located in a rural area in the amount of reductions under section 1886(d)(3)(B) of the Social Security Act and additional payments under section 1886(d)(5)(A) of such Act.

(e) MISCELLANEOUS ACCOUNTING PROVISION.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, subsection (d) of section 9307 of such Act is amended to read as follows:

"(d) MISCELLANEOUS ACCOUNTING PROVISION.—Notwithstanding any other provision of law, for purposes of section 1886(d)(1)(A) of the Social Security Act, in the case of a hospital that—

"(1) had a cost reporting period beginning on September 28, 29, or 30 of 1985,

"(2) is located in a State in which inpatient hospital services were paid in fiscal year 1985 pursuant to a Statewide demonstration project under section 402 of the Social Security Amendments of 1967 and section 222 of the Social Security Amendments of 1972, and

"(3) elects, by notice to the Secretary of Health and Human Services by not later than April 1, 1988, to have this subsection apply,

during the first 7 months of such cost reporting period the 'target percentage' shall be 75 percent and the 'DRG percentage' shall be 25 percent, and during the remaining 5 months of such period the 'target percentage' and the 'DRG percentage' shall each be 50 percent.".

SEC. 4009. MISCELLANEOUS PROVISIONS.

(a) RESPONSIBILITIES OF MEDICARE HOSPITALS IN EMERGENCY CASES.—

(1) INCREASE IN CIVIL MONETARY PENALTY.—Section 1867(d)(2) of the Social Security Act (42 U.S.C. 1395dd(d)(2)) is amended by striking "$25,000" and inserting "$50,000".

(2) EXCLUSION FROM MEDICARE PROGRAM FOR VIOLATIONS.—Section 1867(d)(1) of such Act is amended by adding at the end the following new sentence:

"If a civil money penalty is imposed on a responsible physician under paragraph (2), the Secretary may impose the sanction described in section 1842(j)(2)(A) (relating to barring from participation in the medicare program) in the same manner as it is imposed under section 1842(j).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions occurring on or after the date of the enactment of this Act.

[24] Copy read "ProPac".

(b) DESIGNATION OF PEDIATRIC HOSPITALS AS MEETING CERTIFICATION AS HEART TRANSPLANT FACILITY.—For purposes of determining whether a pediatric hospital that performs pediatric heart transplants meets the criteria established by the Secretary of Health and Human Services for facilities in which the heart transplants performed will be considered to meet the requirement of section 1862(a)(1)(A) of the Social Security Act, the Secretary shall treat such a hospital as meeting such criteria if—

(1) the hospital's pediatric heart transplant program is operated jointly by the hospital and another facility that meets such criteria,

(2) the unified program shares the same transplant surgeons and quality assurance program (including oversight committee, patient protocol, and patient selection criteria), and

(3) the hospital demonstrates to the satisfaction of the Secretary that it is able to provide the specialized facilities, services, and personnel that are required by pediatric heart transplant patients.

(c) WAIVER OF INPATIENT LIMITATIONS FOR THE CONNECTICUT HOSPICE.[25]—Subsection (a) of section 9307 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by striking "TEMPORARY" in the heading, and

(2) by striking "for hospice care provided before October 1, 1988,".

(d) REVISION OF APPOINTMENT PROCESS FOR PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.—

(1) IN GENERAL.—Section 1886(e)(6)(B) of the Social Security Act (42 U.S.C. 1395ww(e)(6)(B)) is amended—

(A) in the first sentence, by striking "provide expertise and experience in the provision and financing of health care" and inserting "include individuals with national recognition for their expertise in health economics, hospital reimbursement, hospital financial management, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives,"; and

(B) by striking the last sentence.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to appointments made after the date of the enactment of this Act.

(e) PSYCHOLOGISTS' SERVICES FURNISHED TO HOSPITAL INPATIENTS.—

(1) IN GENERAL.—Section 1861(b)(3) of such Act (42 U.S.C. 1395x(b)(3)) is amended by inserting "(including clinical psychologist (as defined by the Secretary))" after "others" the first place it appears.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to services furnished on or after April 1, 1988.

(f) HOSPITAL CONDITION OF PARTICIPATION RELATED TO INDIVIDUAL RESPONSIBLE FOR CARE OF PATIENT.—Section 1861(e)(4) of such Act (42 U.S.C. 1395x(e)(4)) is amended by inserting "with respect to whom payment may be made under this title" after "patient".

(g) DELAY IN REQUIREMENTS RELATING TO HOSPITAL STANDARDS FOR ORGAN TRANSPLANTS AND STANDARDS FOR ORGAN PROCUREMENT AGENCIES.—

(1) Section 9318(b)(2) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 107(c) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is amended by striking "November 21, 1987" and inserting "March 31, 1988".

(2) The amendment made by paragraph (1) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

(h) PROPAC STUDIES AND REPORTS.—

(1) PROPAC REPORTS ON STUDY OF DRG RATES FOR HOSPITALS IN RURAL AND URBAN AREAS.—The Prospective Payment Assessment Commission shall evaluate the study conducted by the Secretary of Health and Human Services pursuant to section 603(a)(2)(C)(i) of the Social Security Amendments of 1983 (relating to the feasibility, impact, and desirability of eliminating or phasing out separate urban and rural DRG prospective payment rates) and report its conclusions and recommendations to the Congress not later than March 1, 1988.

(2) PROPAC REPORT ON SEPARATE URBAN PAYMENT RATES.—The Prospective Payment Assessment Commission shall evaluate the desirability of maintaining separate DRG prospective payment rates for hospitals located in large urban areas (as defined in section 1886(d)(2)(D)) of the Social Security Act) and in other urban areas, and shall report to Congress on such evaluation not later than January 1, 1989.

(3) REPORT ON ADJUSTMENT FOR NON-LABOR COSTS.—The Prospective Payment Assessment Commission shall perform an analysis to determine the feasibility and appropriateness of adjusting the non-wage-related portion of the adjusted average standardized amounts under section 1886(d)(3) of the Social Security Act based on area differences in hospitals' costs (other than wage-related costs) and input prices. The Commission shall report to the Congress on such analysis by not later than October 1, 1989.

(i) SPECIAL RULE.—In the case of New England county metropolitan areas, the Secretary of Health and Human Services shall apply the second sentence of section 1886(d)(2)(D) of the Social Security Act, as amended by section 4001(b) of this subtitle, as though 970,000 were substituted for 1,000,000.

(j) TECHNICAL CORRECTIONS.—

(1) Section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)) is amended by inserting a comma after "educational activities".

(2) Section 1886(d)(5)(C)(i)(II) of such Act (42 U.S.C. 1395ww(d)(5)(C)(i)(II)) is amended by inserting "index" after "case mix" both places it appears.

(3) Section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in clause (i)(II), by striking "such revenues" the second place it appears and inserting "such net inpatient care revenues", and

(B) in clause (iv)(I), by striking "subclause (III)" and inserting "clause (v)".

(4) Section 1886(d)(9) of such Act (42 U.S.C. 1395ww(d)(9)) is amended by moving the matter in subparagraph (B) before clause (i) 2 ems to the left so the left margin of such matter is aligned with the left margin of the matter in subparagraph (A) before clause (i).

(5) Section 1886(h)(4)(C) of such Act (42 U.S.C. 1395ww(h)(4)(C)) is amended by striking "subparagraph (E)" and inserting "subparagraph (D)".

(6) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986—

[25] Copy read "LIMITATIONS FOR THE CONNECTICUT HOSPICE.".

(A) subparagraph (B) of section 9307(c)(1) of such Act is amended to read as follows:

"(B) in paragraph (2)—

"(i) by striking subparagraphs (A) and (B),

"(ii) in subparagraph (C), by striking 'such subsection' and inserting 'of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)' and by redesignating such subparagraph as subparagraph (A), and

"(iii) by amending subparagraph (D) to read as follows:

" '(B) The amendments made by subparagraph (A) apply to discharges occurring on or after May 1, 1986.' ";

(B) section 9302(a)(2)(C) of such Act is amended by striking "1866(e)(5)" and inserting "1886(e)(5)";

(C) section 9320(h)(1) of such Act is amended by striking "before the period" and inserting "before the semicolon";

(D) section 9321(c)(4) of such Act is amended by striking "second sentence" and all that follows through "operating costs" and inserting "second sentence of section 1886(a)(4) of the Social Security Act, from the term 'operating costs";

(E) the second sentence of section 9335(d)(2) of such Act is amended by striking "establish" and inserting "designate"; and

(F) section 9321(c)(3) of such Act is amended by inserting "section 1861(v)(1)(O) and 1886(g)(2) of the Social Security Act and" after "implementing".

(7) Section 218(v) of the Social Security Act (42 U.S.C. 418(v)) is amended by striking paragraph (3).

(8) Effective as if included in the Tax Reform Act of 1986, section 1895(d)(6)(C) of such Act is amended by striking "603" and inserting "2203".

PART 2—PROVISIONS RELATING TO PARTS A AND B

Subpart A—Health Maintenance Organization Reforms

SEC. 4011. BENEFICIARY PROTECTION.

(a) POST-CONTRACT PROTECTION FOR ENROLLEES WITH ELIGIBLE ORGANIZATIONS UNDER [26] THE MEDICARE PROGRAM.—

(1) Section 1876(c)(3) of such Act (42 U.S.C. 1395mm(b)(2)) is amended by adding at the end the following new subparagraph:

"(F) Each eligible organization that provides items and services pursuant to a contract under this section shall provide assurances to the Secretary that in the event the organization ceases to provide such items and services, the organization shall provide or arrange for supplemental coverage of benefits under this title related to a pre-existing condition with respect to any exclusion period, to all individuals enrolled with the entity who receive benefits under this title, for the lesser of six months or the duration of such period.".

(2) The amendment made by paragraph (1) shall apply with respect to contracts entered into or renewed on or after the date of enactment of this Act.

(b) NOTIFICATION OF TERMINATION OF RISK-SHARING CONTRACT.—

(1) Section 1876(c)(3) of such Act, as amended by subsection (a)(1), is further amended by adding at the end the following new subparagraph:

"(G)(i) Each eligible organization having a risk-sharing contract under this section shall notify individuals eligible to enroll with the organization under this section and individuals enrolled with the organization under this section that—

"(I) the organization is authorized by law to terminate or refuse to renew the contract, and

"(II) termination or nonrenewal of the contract may result in termination of the enrollments of individuals enrolled with the organization under this section.

"(ii) The notice required by clause (i) shall be included in—

"(I) any marketing materials described in subparagraph (C) that are distributed by an eligible organization to individuals eligible to enroll under this section with the organization, and

"(II) any explanation provided to enrollees by the organization pursuant to subparagraph (E).".

(2) The amendment made by paragraph (1) shall apply to contracts entered into or renewed on or after the date of the enactment of this Act.

SEC. 4012. PAYMENTS FOR HOSPITAL SERVICES.

(a) IN GENERAL.—Section 1866(a)(1) of such Act (42 U.S.C. 1395cc(a)(1)) is amended by inserting immediately after subparagraph (N) the following new subparagraph:

"(O) in the case of hospitals and skilled nursing facilities, to accept as payment in full for inpatient hospital and extended care services that are covered under this title and are furnished to any individual enrolled with an eligible organization with a risk-sharing contract under section 1876 the amounts (in the case of hospitals) or limits (in the case of skilled nursing facilities) that would be made as a payment in full under this title if the individuals were not so enrolled.".

(b) REPEAL.—Section 1876(g)(4) of the Social Security Act (42 U.S.C. 1395mm(g)(4)) is repealed.

(c) IMPLEMENTATION.—The Secretary of Health and Human Services shall provide (in machine readable form) to eligible organizations under section 1876 of the Social Security Act medicare DRG rates for payments required by the amendment made by paragraph (2) and data on cost pass-through items for all inpatient services provided to medicare beneficiaries enrolled with such organizations.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to admissions occurring on or after April 1, 1988, or, if later, the earliest date the Secretary can provide the information required under subsection (c) in machine readable form.

SEC. 4013. TWO-YEAR EXTENSION ON PERIOD FOR BENEFIT STABILIZATION.

(a) IN GENERAL.—Section 1876(g)(5) of the Social Security Act (42 U.S.C. 1395mm(g)(5)), as added by the amendment made by section 2350(a)(2) of the Deficit Reduction Act of 1984, is amended by striking "four" and inserting "six".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the amendment made by section 2350(a)(2) of the Deficit Reduction Act of 1984.

SEC. 4014. CIVIL MONEY PENALTIES AND INTERMEDIATE SANCTIONS AGAINST HMOS/CMPS.

Section 1876(i)(6) of the Social Security Act (42 U.S.C. 1395mm) is amended to read as follows:

"(6)(A) If the Secretary determines that an eligible organization with a contract under this section—

"(i) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(ii) imposes premiums on individuals enrolled under this section in excess of the premiums permitted;

"(iii) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this section;

"(iv) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this section) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(v) misrepresents or falsifies information that is furnished—

"(I) to the Secretary under this section, or

"(II) to an individual or to any other entity under this section; or

"(vi) fails to comply with the requirements of subsection (g)(6)(A);

the Secretary may provide for any of the remedies described in subparagraph (B).

"(B) The remedies described in this subparagraph are—

"(i) civil money penalties of not more than $25,000 for each determination under subparagraph (A) or, with respect to a determination under clause (iv) or (v)(I), of not more than $100,000 for each such determination,

"(ii) suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(iii) suspension of payment to the organization under this section for individuals enrolled after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty under that section.".

SEC. 4015. MEDICARE PAYMENT DEMONSTRATION PROJECTS.

(a) MEDICARE INSURED GROUP DEMONSTRATION PROJECTS.—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") may provide for capitation demonstration projects (in this subsection referred to as "projects") with an entity which is an eligible organization with a contract with the Secretary under section 1876 of the Social Security Act or which meets the restrictions and requirements of this subsection. The Secretary may not approve a project unless it meets the requirements of this subsection.

(2) The Secretary may not conduct more than 3 projects and may not expend, from funds under title XVIII of the Social Security Act, more than $600,000,000 in any fiscal year for all such projects.

(3) The per capita rate of payment under a project—

(A) may be based on the adjusted average per capita cost (as defined in section 1876(a)(4) of the Social Security Act) determined only with respect to the group of individuals involved (rather than with respect to medicare beneficiaries generally), but

[26] Copy read "UNDER".

(B) the rate of payment may not exceed the lesser of—

(i) 95 percent of the adjusted average per capita cost described in subparagraph (A), or

(ii)(I) in the 4th year or 5th year of a project, 115 percent of the adjusted average per capita cost (as defined in section 1876(a)(4) of such Act) for classes of individuals described in section 1876(a)(1)(B) of that Act, or

(II) in any subsequent year of a project, 95 percent of the adjusted average per capita cost (as defined in section 1876(a)(4)) for such classes.

(4) If the payment amounts made to a project are greater than the costs of the project (as determined by the Secretary or, if applicable, on the basis of adjusted community rates described in section 1876(e)(3) of the Social Security Act), the project—

(A) may retain the surplus, but not to exceed 5 percent of the average adjusted per capita cost determined in accordance with paragraph (3)(A), and

(B) with respect to any additional surplus not retained by the project, shall apply such surplus to additional benefits for individuals served by the project or return such surplus to the Secretary.

(5) Enrollment under the project shall be voluntary. Individuals enrolled with the project may terminate such enrollment as of the beginning of the first calendar month following the date on which the request is made for such termination. Upon such termination, such individuals shall retain the same rights to other health benefits that such individuals would have had if they had never enrolled with the project without any exclusion or waiting period for pre-existing conditions.

(6) The requirements of—

(A) subsection (c)(3)(C) (relating to dissemination of information),

(B) subsection (c)(3)(E) (annual statement of rights),

(C) subsection (c)(5) (grievance procedures),

(D) subsection (c)(6) (on-going quality),

(E) subsection (g)(6) (relating to prompt payment of claims),

(F) subsection (i)(3)(A) and (B) (relating to access to information and termination notices),

(G) subsection (i)(6) (relating to providing necessary services), and

(H) subsection (i)(7) (relating to agreements with peer review organizations),

of section 1876 of the Social Security Act shall apply to a project in the same manner as they apply to eligible organizations with risk-sharing contracts under such section.

(7) The benefits provided under a project must be at least actuarially equivalent to the combination of the benefits available under title XVIII of the Social Security Act and the benefits available through any alternative plans in which the individual can enroll through the the employer. The project shall guarantee the actuarial value of benefits available under the employer plan for the duration of the project.

(8) A project shall comply with all applicable State laws.

(9) The Secretary may not authorize a project unless the entity offering the project demonstrates to the satisfaction of the Secretary that it has the necessary financial reserves to pay for any liability for benefits under the project (including those liabilities for health benefits under medicare and any supplemental benefits).

(10) The Comptroller General shall monitor projects under this subsection and shall report periodically (not less often than once every year) to the Committee on Finance of the Senate and the Committee on Energy and Commerce and Committee on Ways and Means of the House of Representatives on the status of such projects and the affect on such projects of the requirements of this section and shall submit a final report to each such committee on the results of such projects.

(b) PAYMENT METHODOLOGY REFORM DEMONSTRATIONS PROJECTS.—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") is specifically authorized to conduct demonstration projects under this subsection for the purpose of testing alternative payment methodologies pertaining to capitation payments under title XVIII of the Social Security Act, including—

(A) computing adjustments to the average per capita cost under section 1876 of such Act on the basis of health status or prior utilization of services, and

(B) accounting for geographic variations in cost in the adjusted average per capita costs applicable to an eligible organization under such section which differs from payments currently provided on a county-by-county basis.

(2) No project may be conducted under this subsection—

(A) with an entity which is not an eligible organization (as defined in section 1876(b) of the Social Security Act), and

(B) unless the project meets all the requirements of subsections (c) and (i)(3) of section 1876 of such Act.

(3) There are authorized to be appropriated to carry out projects under this subsection $5,009,000 in each of fiscal years 1989 and 1990.

(c) APPLICATION OF PROVISIONS.—The provisions of subsection (a)(2) and the first sentence of subsection (b) of section 402 of the Social Security Amendments of 1967 shall apply to the demonstration projects under this section in the same manner as they apply to experiments under subsection (a)(1) of that section.

SEC. 4016. DELAY IN EFFECTIVE DATE IN PHYSICIAN INCENTIVE RULES FOR HEALTH MAINTENANCE ORGANIZATIONS.

Section 9313(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "April 1, 1989" and inserting "April 1, 1990".

SEC. 4017. GAO STUDY AND REPORTS ON MEDICARE CAPITATION.

(a) STUDY.—The Comptroller General shall conduct a study on medicare capitation rates that shall include an analysis and assessment of—

(1) the current method for computing per capita rates of payment under section 1876 of the Social Security Act (including the method for determining the United States per capita cost);

(2) the method for establishing relative costs for geographic areas and the data used to establish age, sex, and other weighting factors;

(3) ways to refine the calculation of adjusted average per capita costs under section 1876 of such Act (including making adjustments for health status or prior utilization of services and improvements in the definition of geographic areas);

(4) the extent to which individuals enrolled with organizations with a risk-sharing contract with the Secretary under section 1876 of such Act differ in utilization and cost from fee-for-service beneficiaries and ways for modifying enrollment patterns through program changes or for reflecting the differences in rates through group experience rating or other means;

(5) approaches for limiting the liability of the contracting organization under section 1876 of such Act in catastrophic cases;

(6) ways of establishing capitation rates on a basis other than fee-for-service experience in areas with high prepaid market penetration; and

(7) methods for providing the rate levels necessary to maintain access to quality prepaid services in rural or medically underserved areas (while maintaining cost savings).

(b) REPORTS.—

(1) Not later than January 1 of 1989 and 1990, the Comptroller General shall submit to the Committee on Finance of the Senate and the Committee on Energy and Commerce and Committee on Ways and Means of the House of Representatives interim reports on the progress of the study conducted under subsection (a).

(2) Not later than January 1, 1991, the Comptroller General shall submit to each such committee a final report on the results of such study.

SEC. 4018. SPECIAL RULES.

(a) ASSIGNMENT OF MEMBERS FOR HIP HEALTH MAINTENANCE ORGANIZATION.—Section 1876(f) of such Act (42 U.S.C. 1395mm(f)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3)(A) An eligible organization described in subparagraph (B) may elect, for purposes of determining the compliance of a subdivision, subsidiary, or affiliate described in subparagraph (B)(iii) with the requirement of paragraph (1) for the period before October 1, 1992, to have members of the subdivision, subsidiary, or affiliate considered to be members of the parent organization.

"(B) An eligible organization described in this subparagraph is an eligible organization which—

"(i) is described in section 1903(m)(2)(B)(iii);

"(ii) has members who have a collectively bargained contractual right to obtain health benefits from the organization;

"(iii) elects to provide benefits under a risk-sharing contract to individuals residing in a service area, who have a collectively bargained contractual right to obtain benefits from the organization, through a subdivision, subsidiary, or affiliate which itself is an eligible organization serving the area and which is owned or controlled by the parent eligible organization; and

"(iv) has assumed any risk of insolvency and quality assurance with respect to individuals receiving benefits through such a subdivision, subsidiary, or affiliate.".

(b) EXTENSION OF WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.—

(1) The Secretary of Health and Human Services shall extend without interruption, through September 30, 1992, the approval of waivers granted under subsection (a) of section 2355 of the Deficit Reduction Act of 1984 for the demonstration project described in subsection (b) of that section, subject to the terms and conditions (other than duration of the project) established under that section (as amended by paragraph (2) of this subsection).

(2) Section 2355(b)(5) of the Deficit Reduction Act of 1984 is amended by inserting

"(i) who is a licensed health professional (as defined in subparagraph (F)), or

"(ii) who volunteers to provide such services without monetary compensation.

"(F) In this paragraph, the term 'licensed health professional' means a physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, registered professional nurse, licensed practical nurse, or licensed or certified social worker.

"(4) With respect to durable medical equipment furnished to individuals for whom the agency provides items and services, suppliers of such equipment do not use (on a full-time, temporary, per diem, or other basis) any individual who does not meet minimum training standards (established by the Secretary by October 1, 1988) for the demonstration and use of any such equipment furnished to individuals with respect to whom payments may be made under this title.

"(5) The agency includes an individual's plan of care required under section 1861(m) as part of the clinical records described in section 1861(o)(3).

"(6) The agency operates and provides services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section 1124) and with accepted professional standards and principles which apply to professionals providing items and services in such an agency.

"(b) It is the duty and responsibility of the Secretary to assure that the conditions of participation and requirements specified in or pursuant to section 1861(o) and subsection (a) of this section and the enforcement of such conditions and requirements are adequate to protect the health and safety of individuals under the care of a home health agency and to promote the effective and efficient use of public moneys.".

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by subsections (a) and (b) shall apply to home health agencies as of the first day of the 18th calendar month that begins after the date of the enactment of this Act.

SEC. 4022. STANDARD AND EXTENDED SURVEY.

(a) IN GENERAL.—Section 1891 of the Social Security Act (as added by section 4021) is amended by adding at the end the following new subsections:

"(c)(1) Any agreement entered into or renewed by the Secretary pursuant to section 1864 relating to home health agencies shall provide that the appropriate State or local agency shall conduct, without any prior notice, a standard survey of each home health agency. Any individual who notifies (or causes to be notified) a home health agency of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The Secretary shall provide for imposition of civil money penalties under this clause in a manner similar to that for the imposition of civil money penalties under section 1128A. The Secretary shall review each State's or local agency's procedures for scheduling and conduct of standard surveys to assure that the State or agency has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(2)(A) Except as provided in subparagraph (B), each home health agency shall be subject to a standard survey not later than 15 months after the date of the previous standard survey conducted under this paragraph. The statewide average interval between standard surveys of any home health agency shall not exceed 12 months.

"(B) If not otherwise conducted under subparagraph (A), a standard survey (or an abbreviated standard survey) of an agency—

"(i) may be conducted within 2 months of any change of ownership, administration, or management of the agency to determine whether the change has resulted in any decline in the quality of care furnished by the agency, and

"(ii) shall be conducted within 2 months of when a significant number of complaints have been reported with respect to the agency to the Secretary, the State, the entity responsible for the licensing of the agency, the State or local agency responsible for maintaining a toll-free hotline and investigative unit (under section 1864(a)), or any other appropriate Federal, State, or local agency.

"(C) A standard survey conducted under this paragraph with respect to a home health agency—

"(i) shall include (to the extent practicable), for a case-mix stratified sample of individuals furnished items or services by the agency—

"(I) visits to the homes of such individuals, but only with the consent of such individuals, for the purpose of evaluating (in accordance with a standardized reproducible assessment instrument (or instruments) approved by the Secretary under subsection (d)) the extent to which the quality and scope of items and services furnished by the agency attained and maintained the highest practicable functional capacity of each such individual as reflected in such individual's written plan of care required under section 1861(m) and clinical records required under section 1861(o)(3); and

"(II) a survey of the quality of care and services furnished by the agency as measured by indicators of medical, nursing, and rehabilitative care;

"(ii) shall be based upon a protocol that is developed, tested, and validated by the Secretary not later than January 1, 1989; and

"(iii) shall be conducted by an individual—

"(I) who meets minimum qualifications established by the Secretary not later than July 1, 1989,

"(II) who is not serving (or has not served within the previous 2 years) as a member of the staff of, or as a consultant to, the home health agency surveyed respecting compliance with the conditions of participation specified in or pursuant to section 1861(o) or subsection (a) of this section, and

"(III) who has no personal or familial financial interest in the home health agency surveyed.

"(D) Each home health agency that is found, under a standard survey, to have provided substandard care shall be subject to an extended survey to review and identify the policies and procedures which produced such substandard care and to determine whether the agency has complied with the conditions of participation specified in or pursuant to section 1861(o) or subsection (a) of this section. Any other agency may, at the Secretary's or State's discretion, be subject to such an extended survey (or a partial extended survey). The extended survey shall be conducted immediately after the standard survey (or, if not practical, not later than 2 weeks after the date of completion of the standard survey).

"(E) Nothing in this paragraph shall be construed as requiring an extended (or partial extended) survey as a prerequisite to imposing a sanction against an agency under subsection (e) on the basis of the findings of a standard survey.

"(d)(1) Not later than January 1, 1989, the Secretary shall designate an assessment instrument (or instruments) for use by an agency in complying with subsection (c)(2)(C)(I).

"(2)(A) Not later than January 1, 1991, the Secretary shall—

"(i) evaluate the assessment process,

"(ii) report to Congress on the results of such evaluation, and

"(iii) based on such evaluation, make such modifications in the assessment process as the Secretary determines are appropriate.

"(B) The Secretary shall periodically update the evaluation conducted under subparagraph (A), report the results of such update to Congress, and, based on such update, make such modifications in the assessment process as the Secretary determines are appropriate.

"(3) The Secretary shall provide for the comprehensive training of State and Federal surveyors in matters relating to the performance of standard and extended surveys under this section, including the use of any assessment instrument (or instruments) designated under paragraph (1).".

(b) EFFECTIVE DATE.—Except as otherwise specifically provided in section 1891(d) of the Social Security Act (as added by subsection (a)), the amendment made by subsection (a) shall become effective on the first day of the 18th calendar month to begin after the date of the enactment of this Act.

SEC. 4023. ENFORCEMENT.

Section 1891 of the Social Security Act (as added by section 4021 and amended by section 4022) is further amended by adding at the end the following new subsections:

"(e)(1) If the Secretary determines on the basis of a standard, extended, or partial extended survey or otherwise, that a home health agency that is certified for participation under this title is no longer in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) and determines that the deficiencies involved immediately jeopardize the health and safety of the individuals to whom the agency furnishes items and services, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in subsection (f)(2)(A)(iii) or terminate the certification of the agency, and may provide, in addition, for 1 or more of the other remedies described in subsection (f)(2)(A).

"(2) If the Secretary determines on the basis of a standard, extended, or partial extended survey or otherwise, that a home health agency that is certified for participation under this title is no longer in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) and determines that the deficiencies involved do not immediately jeopardize the health and safety of the individuals to whom the agency furnishes items and services, the Secretary may (for a period not to exceed 6 months) impose intermediate sanctions developed pursuant to subsection (f), in lieu of terminating the certification of the agency. If, after such a period of intermediate sanctions, the agency is still no longer in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a), the Secretary shall terminate the certification of the agency.

"(3) If the Secretary determines that a home health agency that is certified for participation under this title is in compli-

ance with the requirements specified in or pursuant to section 1861(o) or subsection (a) but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subsection (f)(2)(A)(i) for the days in which it finds that the agency was not in compliance with such requirements.

"(4) The Secretary may continue payments under this title with respect to a home health agency not in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) over a period of not longer than 6 months, if—

"(A) the State or local survey agency finds that it is more appropriate to take alternative action to assure compliance of the agency with the requirements than to terminate the certification of the agency,

"(B) the agency has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(C) the agency agrees to repay to the Federal Government payments received under this subparagraph if the corrective action is not taken in accordance with the approved plan and timetable.

The Secretary shall establish guidelines for approval of corrective actions requested by home health agencies under this subparagraph.

"(f)(1) The Secretary shall develop and implement, by not later than April 1, 1989—

"(A) a range of intermediate sanctions to apply to home health agencies under the conditions described in subsection (e), and

"(B) appropriate procedures for appealing determinations relating to the imposition of such sanctions.

"(2)(A) The intermediate sanctions developed under paragraph (1) shall include—

"(i) civil money penalties for each day of noncompliance,

"(ii) suspension of all or part of the payments to which a home health agency would otherwise be entitled under this title with respect to items and services furnished by a home health agency on or after the date on which the Secretary determines that intermediate sanctions should be imposed pursuant to subsection (e)(2), and

"(iii) the appointment of temporary management to oversee the operation of the home health agency and to protect and assure the health and safety of the individuals under the care of the agency while improvements are made in order to bring the agency into compliance with all the requirements specified in or pursuant to section 1861(o) or subsection (a).

The temporary management under clause (iii) shall not be terminated until the Secretary has determined that the agency has the management capability to ensure continued compliance with all the requirements referred to in that clause.

"(B) The sanctions specified in subparagraph (A) are in addition to sanctions otherwise available under State or Federal law and shall not be construed as limiting other remedies, including any remedy available to an individual at common law.

"(C) A finding to suspend payment under subparagraph (A)(ii) shall terminate when the Secretary finds that the home health agency is in substantial compliance with all the requirements specified in or pursuant to section 1861(o) and subsection (a).

"(3) The Secretary shall develop and implement, by not later than April 1, 1989, specific procedures with respect to the conditions under which each of the intermediate sanctions developed under paragraph (1) is to be applied, including the amount of any fines and the severity of each of these sanctions. Such procedures shall be designed so as to minimize the time between identification of deficiencies and imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.".

(b) EFFECTIVE DATE.—Except as otherwise specifically provided in subsections (e) and (f) of section 1891 of the Social Security Act (as added by subsection (a)), the amendment made by subsection (a) shall become effective on the first day of the 18th calendar month to begin after the date of the enactment of this Act.

SEC. 4024. REQUIREMENT THAT INDIVIDUAL BE CONFINED TO HOME.

(a) PART A.—Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended by adding at the end the following: "For purposes of paragraph (2)(C), an individual shall be considered to be 'confined to his home' if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the assistance of another individual or the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered 'confined to his home', the condition of the individual should be such that there exists a normal inability to leave home, that leaving home requires a considerable and taxing effort by the individual, and that absences of the individual from home are infrequent or of relatively short duration, or are attributable to the need to receive medical treatment.".

(b) PART B.—Section 1835(a) of such Act (42 U.S.C. 1395n(a)) is amended by adding at the end the following: "For purposes of paragraph (2)(A), an individual shall be considered to be 'confined to his home' if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the assistance of another individual or the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered 'confined to his home', the condition of the individual should be such that there exists a normal inability to leave home, that leaving home requires a considerable and taxing effort by the individual, and that absences of the individual from home are infrequent or of relatively short duration, or are attributable to the need to receive medical treatment.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items and services provided on or after January 1, 1988.

SEC. 4025. HOME HEALTH TOLL-FREE HOTLINE AND INVESTIGATIVE UNIT.

(a) IN GENERAL.—Section 1864(a) of the Social Security Act (42 U.S.C. 1395aa(a)) is amended by adding at the end the following:

"Any agreement under this subsection shall provide for the appropriate State or local agency to maintain a toll-free hotline (1) to collect, maintain, and continually update information on home health agencies located in the State or locality that are certified to participate in the program established under this title (which information shall include any significant deficiencies found with respect to patient care in the most recent certification survey conducted with respect to the agency, when that survey was completed, whether corrective actions have been taken or are planned, and the sanctions, if any, imposed under this title with respect to the agency) and (2) to receive complaints (and answer questions) with respect to home health agencies in the State or locality. Any such agreement shall provide for such agency to maintain a unit for investigating such complaints that possesses enforcement authority and has access to survey and certification reports, information gathered by any private accreditation agency pursuant to an agreement with the Secretary under section 1864, and consumer medical records (but only with the consent of the consumer or his or her legal representative).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to agreements entered into or renewed on or after the date of enactment of this Act.

SEC. 4026. HOME HEALTH AGENCY COST LIMITS.

(a) DATA USED TO DETERMINE LIMITS.—

(1) Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:

"(iii) In establishing limits under this subparagraph, the Secretary shall—

"(I) utilize a wage index that is based on audited wage data obtained from home health agencies, and

"(II) base such limits on the most recent audited wage data available, which data may be for cost reporting periods beginning no earlier than July 1, 1985.".

(2) The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after July 1, 1988.

(b) STUDY OF LIMITS.—The Secretary of Health and Human Services shall study and report to the Congress, not later than June 1, 1988, on—

(1) whether the separate schedules of cost limits currently applied to home health agencies under title XVIII of the Social Security Act located in urban and rural areas accurately reflect differences in the costs of urban and rural home health agencies, and

(2) the appropriateness of modifying such limits to take into account the proportion of agency patients who are from urban and rural areas.

SEC. 4027. HOME HEALTH PROSPECTIVE PAYMENT DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide for a demonstration project to develop and test alternative methods of paying home health agencies on a prospective basis for services furnished under the medicare and medicaid programs. The project shall be designed in a manner to enable the Secretary to evaluate the effects of various methods of prospective payment (including payments on a per-visit, per-case, and per-episode basis) on program expenditures, access to, and quality of, home health care, and home health agency operations. The Secretary shall assure that services are first furnished under the project not later than July 1, 1988, and, for this purpose, the Secretary may reinstate a previously awarded contract, or award a sole source contract, to carry out the project.

(b) FUNDING.—The provisions of subsection (a)(2) and the first sentence of subsection (b) of section 402 of the Social Security Amendments of 1967 shall apply to the demonstration project under subsection (a) of this section as they apply to experiments under subsection (a)(1) of that section.

(c) REPORT.—The Secretary shall submit to Congress, not later than one year after the date of the enactment of this Act, an interim report on the demonstration project and, not later than four years after the date of the enactment of this Act, a final report on the results of the project.

Subpart C—Other Provisions

SEC. 4031. PAYMENT CYCLE STANDARDS.

(a) PAYMENT FLOOR STANDARDS.—

(1) Section 1816(c) of the Social Security Act (42 U.S.C. 1395h(c)) is amended by adding at the end the following new paragraph:

"(3)(A) Each agreement under this section shall provide that no payment shall be issued, mailed, or otherwise transmitted with respect to any claim submitted under this title within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph, the term 'applicable number of calendar days' means—

"(i) with respect to claims received in the 3-month period beginning July 1, 1988, 10 days, and

"(ii) with respect to claims received in the 12-month period beginning October 1, 1988, 14 days.".

(2) Section 1842(c) of such Act (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(3)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall provide that no payment shall be issued, mailed, or otherwise transmitted with respect to any claim submitted under this title within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph, the term 'applicable number of calendar days' means—

"(i) with respect to claims received in the 3-month period beginning July 1, 1988, 10 days, and

"(ii) with respect to claims received in the 12-month period beginning October 1, 1988, 14 days.".

(3)(A) The amendments made by paragraphs (1) and (2) shall apply to claims received on or after July 1, 1988.

(B) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 of the Social Security Act and contracts under section 1842 of such Act, and regulations, to such extent as may be necessary to implement the provisions of this subsection on a timely basis.

(b) PROHIBITION OF OTHER POLICIES INTENDED TO SLOW DOWN MEDICARE PAYMENTS.—Notwithstanding any other provision of law, except as specifically provided in this section, the Secretary of Health and Human Services is not authorized to issue, after the date of the enactment of this Act, and before October 1, 1990, any final regulation, instruction, or other policy change which is primarily intended to have the effect of slowing down claims processing, or delaying payment of claims, under title XVIII of the Social Security Act.

(c) BUDGET CONSIDERATIONS.—For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this section is a necessary (but secondary) result of a significant policy change.

SEC. 4032. DENIALS AND RECONSIDERATIONS OF CLAIMS FOR HOME HEALTH SERVICES, EXTENDED CARE SERVICES, AND POST-HOSPITAL EXTENDED CARE SERVICES.

(a) NOTIFICATION AND PHYSICIAN REVIEW.—Section 1816 of the Social Security Act (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(j) An agreement with an agency or organization under this section shall require that, with respect to a claim for home health services, extended care services, or post-hospital extended care services submitted by a provider to such agency or organization that is denied, such agency or organization—

"(1) furnish the provider and the individual with respect to whom the claim is made with a written explanation of the denial and of the statutory or regulatory basis for the denial; and

"(2) promptly notify such individual and the provider of disposition of such reconsideration.".

(b) PERFORMANCE STANDARDS FOR FISCAL INTERMEDIARIES AND CARRIERS.—Section 1816(f) of such Act (42 U.S.C. 1395h(f)) is amended by adding at the end the following: "Such standards and criteria shall include with respect to claims for services furnished under this part by any provider of services other than a hospital whether such agency or organization is able to process 75 percent of reconsiderations within 60 days (except in the case of the fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days and the extent to which its determinations are reversed on appeal.".

(c) EFFECTIVE DATE.—

(1)(A) The amendment made by subsection (a) shall apply with respect to claims received on or after January 1, 1988.

(B) The amendment made by subsection (b) shall apply with respect to claims filed on or after October 1, 1988.

(2) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 and contracts under section 1842 of the Social Security Act, and regulations, to such extent as may be necessary to implement the amendments made by subsections (a) and (b) on a timely basis.

SEC. 4033. PERMITTING DISABLED INDIVIDUALS TO RENEW ENTITLEMENT TO MEDICARE AFTER GAINFUL EMPLOYMENT WITHOUT A 2-YEAR WAITING PERIOD.

(a) IN GENERAL.—

(1) Section 226(f) of the Social Security Act (42 U.S.C. 426(f)) is amended by inserting before the period at the end the following: ", unless the physical or mental impairment which is the basis for disability is the same as (or directly related to) the physical or mental impairment which served as the basis for disability in such previous period".

(2)(A) The amendment made by subsection (a) shall apply to months beginning after the end of the 60-day period beginning on the date of enactment of this Act.

(B) The amendment made by subsection (a) shall not apply so as to include (for the purposes described in section 226(f) of the Social Security Act) monthly benefits paid for any month in a previous period (described in that section) that terminated before the end of the 60-day period described in paragraph (1).

SEC. 4034. APPLICATION OF SECONDARY PAYER PROVISIONS TO GOVERNMENTAL ENTITIES.

(a) IN GENERAL.—Section 1862(b)(4)(B)(i) of the Social Security Act (42 U.S.C. 1395y(b)(4)(B)(i)), as added by the amendment made by section 9319(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "section 5000(b) of the Internal Revenue Code of 1986" and inserting "subsection (b) of section 5000 of the Internal Revenue Code of 1986 without regard to subsection (d) of such section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of section 9319(a) of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4035. PUBLICATION AND NOTIFICATION OF POLICIES.

(a) REQUIRING PUBLICATION OF INTERMEDIARY AND CARRIER BUDGET METHODOLOGY.—

(1) Section 1816(c)(1) of the Social Security Act (42 U.S.C. 1395h(c)(1)) is amended by adding at the end the following sentence: "The Secretary shall cause to have published in the Federal Register, by not later than September 1 before each fiscal year, data, standards, and methodology to be used to establish budgets for fiscal intermediaries under this section for that fiscal year, and shall cause to be published in the Federal Register for public comment, at least 90 days before such data, standards, and methodology are published, the data, standards, and methodology proposed to be used.".

(2) Section 1842(c)(1) of such Act (42 U.S.C. 1395u(c)(1)) is amended by adding at the end the following sentence: "The Secretary shall cause to have published in the Federal Register, by not later than September 1 before each fiscal year, data, standards, and methodology to be used to establish budgets for carriers under this section for that fiscal year, and shall cause to be published in the Federal Register for public comment, at least 90 days before such data, standards, and methodology are published, the data, standards, and methodology proposed to be used.".

(3) The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to budgets for fiscal years beginning with fiscal year 1989.

(b) PUBLICATION AS REGULATIONS OF SIGNIFICANT POLICIES.—Section 1871(a) of such Act (42 U.S.C. 1395hh(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) No rule, requirement, or other statement of policy (other than a national coverage determination) that establishes or changes a substantive legal standard governing the scope of benefits, the payment for services, or the eligibility of individuals, entities, or organizations to furnish or receive services or benefits under this title shall take effect unless it is promulgated by the Secretary by regulation under paragraph (1).".

(c) MISCELLANEOUS PUBLICATION AND INFORMATION ACCESS PROVISIONS.—Section 1871 of such Act (42 U.S.C. 1395hh) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall publish in the Federal Register, not less frequently than every 3 months, a list of all manual instructions, interpretative rules, statements of policy, and guidelines of general applicability which—

"(A) are promulgated to carry out this title, but

"(B) are not published pursuant to subsection (a)(1) and have not been previously published in a list under this subsection.

"(2) Effective June 1, 1988, each fiscal intermediary and carrier administering claims for extended care, post-hospital extended care, home health care, and durable medical equipment benefits under this title shall make available to the public all interpretative materials, guidelines, and clarifications of policies which relate to payments for such benefits.

"(3) The Secretary shall to the extent feasible make such changes in automated data collection and retrieval by the Secretary and fiscal intermediaries with agreements under section 1816 as are necessary to make easily accessible for the Secretary and other appropriate parties a data base which fairly and accurately reflects the provision of extended care, post-hospital extended care and home health care benefits pursuant to this title, including such categories as benefit denials, results of appeals, and other relevant factors, and selectable by such categories and by fiscal intermediary, service provider, and region.".

SEC. 4036. END-STAGE RENAL DISEASE AMENDMENTS.

(a) IMPLEMENTATION OF PRIMARY PAYER REQUIREMENTS FOR END-STAGE RENAL DISEASE PROGRAM.—

(1) Section 1862(b)(2)(A) of the Social Security Act (42 U.S.C. 1395y(b)(2)(A)) is amended by striking "(ii)" and all that follows through "under this title" and inserting "(ii) can reasonably be expected to be made under such a plan".

(2) The amendment made by paragraph (1) shall apply with respect to items and services furnished on or after 30 days after the date of the enactment of this Act.

(b) LIMITATION OF MINIMUM UTILIZATION RATE REQUIREMENT FOR END-STAGE RENAL DISEASE TRANSPLANTATIONS.—The last sentence of section 1881(b)(1) of such Act (42 U.S.C. 1395rr(b)(1)) is amended by striking "covered procedures and for self-dialysis training programs" and inserting "transplantations".

(c) EXTENSION OF DEADLINE FOR ESTABLISHING PROTOCOLS ON REUSE OF DIALYSIS FILTERS AND OTHER DIALYSIS SUPPLIES AS IT RELATES TO THE REUSE OF BLOODLINES.—

(1)(A) Section 9335(k)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by inserting "(or July 1, 1988, with respect to protocols that relate to the reuse of bloodlines)" after "October 1, 1987".

(B) The amendment made by subparagraph (A) shall be effective as if included in the enactment of section 9335(k)(2) of the Omnibus Budget Reconciliation Act of 1986.

(2) Section 1881(f)(7)(B) of the Social Security Act (42 U.S.C. 1395rr(f)(7)(B)) is amended by inserting "(or July 1, 1988, with respect to protocols that relate to the reuse of bloodlines)" after "January 1, 1988".

(d) STUDIES OF END-STAGE RENAL DISEASE PROGRAM.—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall arrange for a study of the end-stage renal disease program within the medicare program.

(2) Among other items, the study shall address—

(A) access to treatment by both individuals eligible for medicare benefits and those not eligible for such benefits;

(B) the quality of care provided to end-stage renal disease beneficiaries, as measured by clinical indicators, functional status of patients, and patient satisfaction;

(C) the effect of reimbursement on quality of treatment;

(D) major epidemiological and demographic changes in the end-stage renal disease population that may affect access to treatment, the quality of care, or the resource requirements of the program; and

(E) the adequacy of existing data systems to monitor these matters on a continuing basis.

(3) The Secretary shall submit to Congress, not later than 3 years after the date of the enactment of this Act, a report on the study.

(4) The Secretary shall request the National Academy of Sciences, acting through the Institute of Medicine, to submit an application to conduct the study described in this section. If the Academy submits an acceptable application, the Secretary shall enter into an appropriate arrangement with the Academy for the conduct of the study. If the Academy does not submit an acceptable application to conduct the study, the Secretary may request one or more appropriate nonprofit private entities to submit an application to conduct the study and may enter into an appropriate arrangement for the conduct of the study by the entity which submits the best acceptable application.

(5) Section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended—

(A) in subsection (c)(2)(F), by striking "and subsection (g)",

(B) by striking the last sentence of subsection (c)(6),

(C) by striking subsection (g), and

(D) by redesignating subsection (h), as added by section 20 of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), as subsection (g).

SEC. 4037. MEDICARE HEARINGS AND APPEALS.

(a) MAINTAINING CURRENT SYSTEM FOR HEARINGS AND APPEALS.—Any hearing conducted under section 1869(b)(1) of the Social Security Act prior to the earliest of the date on which the Secretary of Health and Human Services submits the report required to be submitted by the Secretary under subsection (b)(1) or September 1 shall be conducted by Administrative Law Judges of the Office of Hearings and Appeals of the Social Security Administration in the same manner as are hearings conducted under section 205(b)(1) of such Act.

(b) STUDY AND REPORT ON USE OF TELEPHONE HEARINGS.—

(1) The Secretary of Health and Human Services and the Comptroller General of the United States shall each conduct a study on holding hearings under section 1869(b)(1) of the Social Security Act by telephone and shall each report the results of the study not later than 6 months after the date of enactment of this Act.

(2) The studies under paragraph (1) shall focus on whether telephone hearings allow for a full and fair evidentiary hearing, in general, or with respect to any particular category of claims and shall examine the possible improvements to the hearing process (such as cost-effectiveness, convenience to the claimant, and reduction in time under the process) resulting from the use of such hearings as compared to the adoption of other changes to the process (such as expansions in staff and resources).

SEC. 4038. RURAL HEALTH MEDICAL EDUCATION DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into agreements with four sponsoring hospitals submitting applications under this subsection to conduct demonstration projects to assist resident physicians in developing field clinical experience in rural areas.

(b) NATURE OF PROJECT.—Under a demonstration project conducted under subsection (a), a sponsoring hospital entering into an agreement with the Secretary under such subsection shall enter into arrangements with a small rural hospital to provide to such rural hospital, for a period of one to three months of training, physicians (in such number as the agreement under subsection (a) may provide) who have completed one year of residency training.

(c) SELECTION.—In selecting from among applications submitted under subsection (a), the Secretary shall ensure that four small rural hospitals located in different counties participate in the demonstration project and that—

(1) two of such hospitals are located in rural counties of more than 2,700 square miles (one of which is east of the Mississippi River and one of which is west of such river); and

(2) two of such hospitals are located in rural counties with (as determined by the Secretary) a severe shortage of physicians (one of which is east of the Mississippi River and one of which is west of such river).

(d) CLARIFICATION OF PAYMENT.—For purposes of section 1886 of the Social Security Act—

(1) with respect to subsection (d)(5)(B) of such section, any resident physician participating in the project under subsection (a) for any part of a year shall be treated as if he or she were working at the appropriate sponsoring hospital with an agreement under subsection (a) on September 1 of such year (and shall not be treated as if working at the small rural hospital); and

(2) with respect to subsection (h) of such section, the payment amount permitted under such subsection for a sponsoring hospital with an agreement under subsection (a) shall be increased (for the duration of the project only) by an amount equal to the amount of any direct graduate medical education costs (as defined in paragraph (5) of such subsection (h)) incurred by such hospital in supervising the education and training activities under a project under subsection (a).

(e) DURATION OF PROJECT.—Each demonstration project under subsection (a) shall be commenced not later than six months after the date of enactment of this Act and shall be conducted for a period of three years.

(f) DEFINITION.—In this section, the term "sponsoring hospital" means a hospital that receives payments under sections 1886(d)(5)(B) and 1886(h) of the Social Security Act.

SEC. 4039. MISCELLANEOUS AND TECHNICAL PROVISIONS.

(a) CLARIFICATION OF CRIMINAL PENALTIES FOR WILLFUL MISREPRESENTATIONS.—Subsection (c) of section 1128B of the Social Security Act (42 U.S.C. 1320a-7(b)),[28] as redesig-

[28] Copy read "1320a-7b)),".

nated by section 4(d) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), is amended—

(1) by striking "institution or facility" each place it appears and inserting "institution, facility, or entity", and

(2) by inserting "(including an eligible organization under section 1876(b))" after "other entity".

(b) PODIATRISTS.—

(1) Section 1861(r)(3) of the Social Security Act (42 U.S.C. 1395x(r)(3)) is amended—

(A) by striking "subsection (s) of this section" and inserting "subsections (k), (m), (p)(1), and (s) of this section and sections 1814(a), 1832(a)(2)(F)(ii), and 1835", and

(B) by striking "; and for the purposes" and all that follows through "which he is legally authorized to perform".

(2) Section 1861(b)(6) of such Act (42 U.S.C. 1395x(b)(6)) is amended by striking "Council on Podiatry Education of the American Podiatry Association" and inserting "Council on Podiatric Medical Education of the American Podiatric Medical Association".

(c) RECOVERY OF PAYMENTS FOR CERTAIN PACEMAKER DEVICES.—

(1) Section 1862(h) of such Act (42 U.S.C. 1395y(h)) is amended—

(A) in paragraph (1)(B), by striking "law," and inserting "law (and any amount paid to a provider under any such warranty),";

(B) in paragraph (1)(D), by striking "(3)," and inserting "(3), in determining the amount subject to repayment under paragraph (2)(C),";

(C) in paragraph (2)—

(i) by striking "and" at the end of subparagraph (A),

(ii) by striking the period at the end of subparagraph (B) and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(C) to make repayment to the Secretary of amounts paid under this title to the provider with respect to any cardiac pacemaker device or lead which has been replaced by the manufacturer, or for which the manufacturer has made payment to the provider, under an express or implied warranty."; and

(D) in paragraph (4)(B)—

(i) by striking "or has" and inserting ", has", and

(ii) by striking "(2)(B)," and inserting "(2)(B), or has failed to make repayment to the Secretary as required under paragraph (2)(C),".

(2) The amendments made by paragraph (1) shall become effective on January 1, 1988.

(d) EXTEND AND CLARIFY PROHIBITION ON COST SAVINGS POLICIES BEFORE BEGINNING OF FISCAL YEAR.—Notwithstanding any other provision of law, except as required to implement specific provisions required under statute, the Secretary of Health and Human Services is not authorized to issue in final form, after the date of the enactment of this Act and before October 15, 1988, any regulation, instruction, or other policy which is estimated by the Secretary to result in a net reduction in expenditures under title XVIII of the Social Security Act in fiscal year 1989 of more than $50,000,000.

(e) MORATORIUM ON PRIOR AUTHORIZATION FOR HOME HEALTH AND POST-HOSPITAL EXTENDED CARE SERVICES.—The Secretary of Health and Human Services shall not implement any voluntary or mandatory program of prior authorization for home health services, extended care services, or post-hospital extended care services under part A or B of title XVIII of the Social Security Act at any time prior to six months after the date on which the Congress receives the report required under section 9305(k)(4) of the Omnibus Budget Reconciliation Act of 1986.

(f) DELAY IN PUBLISHING REGULATIONS WITH RESPECT TO DEEMING THE STATUS OF ENTITIES.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall not deem any entity to be a provider of services (as defined in section 1861(u) of the Social Security Act) for purposes of title XVIII of such Act—

(1) on any date prior to 6 months after the date on which the Secretary has published a proposed rule with respect to the deeming of the entity, and

(2) until the Secretary publishes a final rule with respect to the deeming of the entity.

(g) USE OF INTERIM FINAL REGULATIONS.—The Secretary of Health and Human Services shall issue such regulations (on an interim or other basis) as may be necessary to implement this subtitle and the amendments made by this subtitle.

PART 3—RELATING TO PART B

Subpart A—Provisions Relating to Payments for Physicians' Services

SEC. 4041. FREEZE IN PAYMENTS FOR PHYSICIANS' SERVICES; EXTENSION OF SEQUESTER ORDER.

(a) THREE-MONTH FREEZE ON INCREASES IN PHYSICIAN PAYMENTS.—

(1) IN GENERAL.—Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended—

(A) in subsection (b)(4)—

(i) in subparagraph (A), by redesignating clause (v) as clause (vi) and by inserting after clause (iv) the following new clause:

"(v) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the 3-month period beginning January 1, 1988, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning January 1, 1987.", and

(ii) in subparagraph (B), by adding at the end the following new clause:

"(iii) In determining the reasonable charge under paragraph (3) for physicians' services furnished during the 3-month period beginning January 1, 1988, the customary charges shall be the same customary charges as were recognized under this section for the 12-month period beginning January 1, 1987."; and

(B) in subsection (j)(1)(C), by adding at the end thereof the following new clause:

"(vii) Notwithstanding any other provision of this subparagraph, the maximum allowable actual charge for a particular physician's service furnished by a nonparticipating physician to individuals enrolled under this part during the 3-month period beginning on January 1, 1988, shall be the amount determined under this subparagraph for 1987. The maximum allowable actual charge for any such service otherwise determined under this subparagraph for 1988 shall take effect on April 1, 1988.".

(2) EXTENSION OF PHYSICIAN PARTICIPATION AGREEMENTS AND RELATED PROVISIONS.—Notwithstanding any other provision of law—

(A) subject to the last sentence of this paragraph, each agreement with a participating physician in effect on December 31, 1987, under section 1842(h)(1) of the Social Security Act shall remain in effect for the 3-month period beginning on January 1, 1988;

(B) the effective period for agreements under such section entered into for 1988 shall be the nine-month period beginning on April 1, 1988, and the Secretary shall provide an opportunity for physicians to enroll as participating physicians prior to April 1, 1988;

(C) instead of publishing, under section 1842(h)(4) of the Social Security Act at the beginning of 1988, directories of participating physicians for 1988, the Secretary shall provide for such publication, at the beginning of the 9-month period beginning on April 1, 1988, of such directories of participating physicians for such period; and

(D) instead of providing to nonparticipating physicians, under section 1842(b)(3)(G) of the Social Security Act at the beginning of 1988, a list of maximum allowable actual charges for 1988, the Secretary shall provide, at the beginning of the 9-month period beginning on April 1, 1988, to such physicians such a list for such 9-month period.

An agreement with a participating physician in effect on December 31, 1987, under section 1842(h)(1) of the Social Security Act shall not remain in effect for the period described in subparagraph (A) if the participating physician requests on or before December 31, 1987, that the agreement be terminated.

(3)(A) Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended—

(i) in subsection (b)(2), by adding at the end the following: "In establishing such standards and criteria, the Secretary shall provide a system to measure a carrier's performance of responsibilities described in paragraph (3)(H) and subsection (h)."; and

(ii) in subsection (c)(1), by inserting "(A)" after "(c)(1)" and by adding at the end the following new subparagraph:

"(B) Of the amounts appropriated for administrative activities to carry out this part, the Secretary shall provide payments, totaling 1 percent of the total payments to carriers for claims processing in any fiscal year, to carriers under this section, to reward carriers for their success in increasing the proportion of physicians in the carrier's service area who are participating physicians or in increasing the proportion of total payments for physicians' services which are payments for such services rendered by participating physicians.".

(B) Section 9332(a) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(i) by striking paragraphs (2) and (3),

(ii) in paragraph (4)(B), by striking "under paragraph (2)" and inserting "under the last sentence of section 1842(b)(2) of the Social Security Act", and

(iii) in paragraph (4)(C)—

(I) by striking "under paragraph (3)" and inserting "under section 1842(c)(1)(B) of the Social Security Act",

(II) by striking "April" and inserting "July", and

(III) by striking "at the end of 1987" and inserting "before April 1, 1988".

(b) EXTENSION OF REDUCTION UNDER SEQUESTER ORDER.—Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through March 31, 1988, with respect to payments for physicians' services under part B of such title.

SEC. 4042. GENERAL UPDATE IN PAYMENTS FOR PHYSICIANS' SERVICES.

(a) INCREASE IN MEI FOR 1988 AND 1989.—Section 1842(b)(4) of the Social Security Act (42 U.S.C. 1395u(b)(4)) is amended by adding at the end the following new subparagraph:

"(F)(i) For purposes of this part for physicians' services furnished in 1987, the percentage increase in the MEI is 3.2 percent.

"(ii) For purposes of this part for physicians' services furnished in 1988, on or after April 1, the percentage increase in the MEI is—

"(I) 3.6 percent for primary care services (as defined in subparagraph (E)(iii)), and

"(II) 1 percent for other physicians' services.

"(iii) For purposes of this part for physicians' services furnished in 1989, the percentage increase in the MEI is—

"(I) 3.0 percent for primary care services; and

"(II) 1 percent for other physician's services.".

(b) PRIMARY CARE SERVICES DEFINED.—Section 1842(b)(4)(E) of such Act (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end thereof the following new clause:

"(iii) The term 'primary care services' means physicians' services which constitute office medical services, emergency department services, home medical services, skilled nursing, intermediate care, and long-term care medical services, or nursing home, boarding home, domiciliary, or custodial care medical services.".

(c) PARTICIPATING PHYSICIAN DIFFERENTIAL.—Section 1842(b)(4)(A)(iv) of such Act (42 U.S.C. 1395u(b)(4)(A)(iv)) is amended—

(1) by striking "96 percent" and inserting "applicable percent", and

(2) by adding at the end the following: "In the previous sentence, the term 'applicable percent' means for services furnished (I) on or after January 1, 1987, and before April 1, 1988, 96 percent, (II) on or after April 1, 1988, and before January 1, 1988, 95.5 percent, and (III) on or after January 1, 1989, 95 percent.".

SEC. 4043. INCENTIVE PAYMENTS FOR PHYSICIANS' SERVICES FURNISHED IN UNDERSERVED AREAS.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(m) In the case of physicians' services furnished to an individual, who is covered under the insurance program established by this part and who incurs expenses for such services, in an area that is designated (under section 332(a)(1)(A) of the Public Health Service Act) as a class 1 or class 2 health manpower shortage area, in addition to the amount otherwise paid under this part, there also shall be paid to the physician (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)) (on a monthly or quarterly basis) from the Federal Supplementary Medical Insurance Trust Fund an amount equal to 5 percent of the payment amount for the service under this part.".

(b) STUDY.—The Secretary of Health and Human Services shall study and report to Congress, by not later than January 1, 1990, on the feasibility of making additional payments described in section 1833(m) of the Social Security Act with respect to physician services which are performed in health manpower shortage areas located in urban areas.

(c) EFFECTIVE DATE.—The amendments made by this subsection (a) shall apply with respect to services furnished in a rural area (as defined in section 1886(d)(2)(D) of the Social Security Act)[29] on or after January 1, 1989, and to other services furnished on or after January 1, 1991.

SEC. 4044. ADJUSTMENT IN PREVAILING CHARGE LEVEL FOR PRIMARY CARE SERVICES.

(a) INCREASE IN PREVAILING CHARGES FOR PRIMARY CARE SERVICES.—Section 1842(b)(4)(A) of the Social Security Act (42 U.S.C. 1395u(b)(4)(A)), as amended by section 4041(a)(1) of this subtitle, is further amended by redesignating clause (vi) as clause (vii) and by inserting after clause (v) the following new clause:

"(vi) Before each year (beginning with 1989), the Secretary shall establish a prevailing charge floor for primary care services (as defined in subparagraph (E)(iii)) equal to 50 percent of the average of the prevailing charge levels (determined, for participating physicians under the third and fourth sentences of paragraph (3) and under paragraph (4), without regard to this clause and without regard to physician specialty) for such service for all localities in the United States (weighted by the relative frequency of the service in each locality) for the year.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payment for physicians' services furnished on or after January 1, 1989.

SEC. 4045. REDUCTION IN PREVAILING CHARGE LEVEL FOR OVERPRICED PROCEDURES.

(a) IN GENERAL.—Paragraph (10) of section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended to read as follows:

"(10)(A)(i) In determining the reasonable charge under paragraph (3) for procedures described in subparagraph (C) and performed during the 9-month period beginning on April 1, 1988, the prevailing charge for such procedure for participating and nonparticipating physicians shall be the prevailing charge otherwise recognized for such procedure for 1987—

"(I) subject to clause (iii), reduced by 2.0 percent, and

"(II) further reduced by the applicable percentage specified in clause (ii).

"(ii) For purposes of clause (i), the applicable percentage specified in this clause is—

"(I) 15 percent, in the case of a prevailing charge otherwise recognized (without regard to this paragraph and determined without regard to physician specialty) that is at least 150 percent of the weighted national average (as determined by the Secretary) of such prevailing charges for such procedure for all localities in the United States for 1987;

"(II) 0 percent, in the case of a prevailing charge that does not exceed 85 percent of such weighted national average; and

"(III) in the case of any other prevailing charge, a percent determined on the basis of a straight-line sliding scale, equal to 5/13 of a percentage point for each percent by which the prevailing charge exceeds 85 percent of such weighted national average.

"(iii) In no case shall the reduction under clause (i) for a procedure result in a prevailing charge in a locality for 1988 which is less than 85 percent of the Secretary's estimate of the weighted national average of such prevailing charges for such procedure for all localities in the United States for 1987 (based upon the best available data and determined without regard to physician specialty) after making the reduction described in clause (i)(II).

"(B) The procedures described in this subparagraph are as follows: bronchoscopy, carpal tunnel repair, cataract surgery, coronary artery bypass surgery, diagnostic and/or therapeutic dilation and curettage, knee arthroscopy, knee arthroplasty, pacemaker implantation surgery, total hip replacement, suprapubic prostatectomy, transurethral resection of the prostate, and upper gastrointestinal endoscopy.

"(C) In the case of a reduction in the reasonable charge for a physicians' service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part, after the effective date of such reduction, the physician's actual charge is subject to a limit under subsection (j)(1)(D).

"(D) There shall be no administrative or judicial review section 1869 or otherwise of any determination under subparagraph (A) or under paragraph (11)(B)(ii).".

(b) MODIFICATION OF GEOGRAPHIC INDEX.—Section 1845(e)(4)(A)(i) of such Act (42 U.S.C. 1395w-1(e)(4)(A)(i)) is amended by inserting "and costs of living" after "costs of practice".

(c) CONSOLIDATED CHARGE LIMITATION PROVISIONS.—

(1) PENALTIES FOR EXCESS CHARGES.—Section 1842 of such Act is further amended—

(A) in subsection (b)(11)(C)—

(i) in clause (i), by striking "(subject to clause (iv))" and all that follows through the end and inserting the following: ", the physician's actual charge is subject to a limit under subsection (j)(1)(D).";

(ii) in clause (i), by striking "(i)" after "(C)"; and

(iii) by striking clauses (ii) through (iv); and

(B) in subsection (j)(1), by adding at the end the following new subparagraph:

"(D)(i) If an action described in clause (ii) results in a reduction in a reasonable charge for a physicians' service or item and a nonparticipating physician furnishes the service or item to an individual entitled to benefits under this part after the effective date of such action, the physician may not charge the individual more than 125 percent of the reduced payment allowance (as defined in clause (iii)) plus (for services or items furnished during the 12-month period (or 9-month period in the case of an action described in clause (ii)(II)) beginning on the effective date of the action) ½ of the amount by which the physician's maximum allowable actual charge for the service or item for the previous 12-month period exceeds such 125 percent level.

"(ii) The first sentence of clause (i) shall apply to—

"(I) an adjustment under subsection (b)(8)(B) (relating to inherent reasonableness),

"(II) a reduction under subsection (b)(10)(A) (relating to certain overpriced procedures),

"(III) a reduction under subsection (b)(11)(B) (relating to certain cataract procedures), and

"(IV) an adjustment under section 1833(l)(3)(B) (relating to physician supervision of certified registered nurse anesthetists).

"(iii) In clause (i), the term 'reduced payment allowance' means, with respect to an action—

"(I) under subsection (b)(8)(B), the inherently reasonable charge established under subsection (b)(8); or

[29] Copy read "Act))".

"(II) under subsection (b)(10)(A) or (b)(11)(B) or under section 1833(l)(3)(B), the prevailing charge for the service after the action.

"(iv) If a physician knowingly and willfully imposes a charge in violation of clause (i) (whether or not such charge violates subparagraph (B)), the Secretary may apply sanctions against such physician in accordance with paragraph (2).

"(v) Clause (i) shall not apply to items and services furnished after the earlier of (I) December 31, 1990, or (II) one-year after the date the Secretary reports to Congress, under section 1845(e)(3), on the development of the relative value scale under section 1845.".

(2) CONFORMING AMENDMENTS.—(A) Section 1833(l)(6) of such Act (42 U.S.C. 1395l(l)(6)) is amended—

(i) in subparagraph (A), by striking "(subject to subparagraph (D))" and all that follows through the end and inserting the following: "after the effective date of the reduction, the physician's actual charge is subject to a limit under section 1842(j)(1)(D).";

(ii) in subparagraph (A), by striking "(A)" after "(6)"; and

(iii) by striking subparagraphs (B) through (D).

(B) Section 1842(b)(11)(B)(i) of such Act (42 U.S.C. 1395u(b)(11)(B)(i)) is amended by striking "and shall be further reduced" and all that follows through "1988".

(C) Section 9334(b)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "1842(b)(10)" and inserting "1842(j)(1)(D)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after April 1, 1988, except the amendment made by subsection (c)(2)(B) shall apply to services furnished on or after January 1, 1988.

SEC. 4046. LIMITS ON PAYMENT FOR OPHTHALMIC ULTRASOUND.

(a) IN GENERAL.—Section 1842 of the Social Security Act (42 U.S.C. 1395u), as previously amended by this subpart is amended—

(1) in subsection (b)(11)—

(A) in subparagraph (C), as redesignated under section 4045(c)(1)(A)(ii) of this title, by inserting "or (C)" after "subparagraph (B)";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) The prevailing charge level determined with respect to A-mode ophthalmic ultrasound procedures may not exceed 5 percent of the prevailing charge level established with respect to extracapsular cataract removal with lens implantation."; and

(2) in subparagraph (D) of subsection (j)(1), as added by section 4045(c)(1)(B) of this subtitle—

(A) in clause (ii), by striking "and" at the end of subclause (III), by redesignating subclause (IV) as subclause (V) and by inserting before such subclause the following new subclause:

"(IV) a prevailing charge limit is established under subsection (b)(11)(C)(i), and"; and

(B) in clause (iii)(II), by striking "or (b)(11)(B)" and inserting ", (b)(11)(B), or (b)(11)(C)(i)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after April 1, 1988.

SEC. 4047. CUSTOMARY CHARGES FOR PRIMARY CARE SERVICES OF NEW PHYSICIANS.

(a) IN GENERAL.—Section 1842(b)(4) of the Social Security Act, as amended by section 4042(a), is further amended by adding at the end thereof the following new subparagraph:

"(G) In determining the customary charges for physicians' services (other primary care services and other than services furnished in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area) for which adequate actual charge data are not available because a physician has not yet been in practice for a sufficient period of time, the Secretary shall set a customary charge at a level no higher than 80 percent of the prevailing charge (as determined under the third and fourth sentences of paragraph (3) and under paragraph (4)) for a service.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to physicians who first furnish services to medicare beneficiaries after April 1, 1988.

SEC. 4048. PAYMENT FOR PHYSICIAN ANESTHESIA SERVICES.

(a) IN GENERAL.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is further amended by adding at the end the following new paragraph:

"(14)(A) In determining the reasonable charge under paragraph (3) of a physician for medical direction of two or more nurse anesthetists performing, on or after April 1, 1988, and before January 1, 1991, anesthesia services in whole or in part concurrently, the number of base units which may be recognized with respect to such medical direction for each concurrent procedure (other than cataract surgery or an iridectomy) shall be reduced by—

"(i) 10 percent, in the case of medical direction of 2 nurse anesthetists concurrently,

"(ii) 25 percent, in the case of medical direction of 3 nurse anesthetists concurrently, and

"(iii) 40 percent, in the case of medical direction of 4 nurse anesthetists concurrently.

"(B) In determining the reasonable charge under paragraph (3) of a physician for medical direction of two or more nurse anesthetists performing, on or after January 1, 1989, and before January 1, 1991, anesthesia services in whole or in part concurrently, the number of base units which may be recognized with respect to such medical direction for each concurrent cataract surgery or iridectomy procedure shall be reduced by 10 percent.

"(C) The Secretary shall require claims for physicians' services for medical direction of nurse anesthetists during the periods in which the provisions of subparagraph (A) or (B) apply to indicate the number of such anesthetists being medically directed concurrently at any time during the procedure, the name of each nurse anesthetist being directed, and the type of procedure for which the services are provided.".

(b) DEVELOPMENT OF UNIFORM RELATIVE VALUE GUIDE.—The Secretary of Health and Human Services, in consultation with groups representing physicians who furnish anesthesia services, shall establish by regulation a relative value guide for use in all carrier localities in making payment for physician anesthesia services furnished under part B of title XVIII of the Social Security Act on and after January 1, 1989. Such guide shall be designed so as to result in expenditures under such title for such services in an amount that would not exceed the amount of such expenditures which would otherwise occur.

(c) STUDY OF PREVAILING CHARGES FOR ANESTHESIA SERVICES.—The Secretary of Health and Human Services shall conduct a study of the variations in conversion factors used by carriers under section 1842(b) of the Social Security Act to determine the prevailing charge for anesthesia services and shall report the results of the study and make recommendations for appropriate adjustments in such factors not later than January 1, 1989.

(d) GAO STUDIES.—(1) The Comptroller General shall conduct a study—

(A) to determine the average anesthesia times reported for medicare reimbursement purposes,

(B) to verify those times from patient medical records,

(C) to compare anesthesia times to average surgical times, and

(D) to determine whether the current payments for physician supervision of nurse anesthetists are excessive.

The Comptroller General shall report to Congress, by not later than January 1, 1989, on such study and in the report include recommendations regarding the appropriateness of the anesthesia times recognized by medicare for reimbursement purposes and recommendations regarding adjustments of payments for physician supervision of nurse anesthetists.

(2) The Comptroller General shall conduct a study on the impact of the amendment made by subsection (a), and shall report to Congress on the results of such study by April 1, 1990.

SEC. 4049. FEE SCHEDULES FOR RADIOLOGIST SERVICES.

(a) IN GENERAL.—Part B of title XVIII of the Social Security Act is amended—

(1) in section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 4062(c)(3) of this subtitle by striking "and" before "(I)", and by adding at the end the following new clause: "and (J) with respect to expenses incurred for radiologist services (as defined in section 1834(b)(5)), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount provided under the fee schedule established under section 1834(b),"; and

(2) by adding at the end of section 1834, as subsequently inserted by section 4062(a) of this subtitle, the following new subsection:

"(b) FEE SCHEDULES FOR RADIOLOGIST SERVICES.—

"(1) DEVELOPMENT.—The Secretary shall develop—

"(A) a relative value scale to serve as the basis for the payment for radiologist services under this part, and

"(B) using such scale and appropriate conversion factors, fee schedules (on a regional, statewide, or carrier service area basis) for payment for radiologist services under this part, to be implemented for such services furnished during 1989.

"(2) CONSULTATION.—In carrying out paragraph (1), the Secretary shall regularly consult closely with the Physician Payment Review Commission, the American College of Radiology, and other organizations representing physicians or suppliers who furnish radiologist services and shall share with them the data and data analysis being used to make the determinations under paragraph (1), including data on variations in

current medicare payments by geographic area, and by service and physician specialty.

"(3) CONSIDERATIONS.—In developing the relative value scale and fee schedules under paragraph (1), the Secretary—

"(A) shall take into consideration variations in the cost of furnishing such services among geographic areas and among different sites where services are furnished, and

"(B) may also take into consideration such other factors respecting the manner in which physicians in different specialties furnish such services as may be appropriate to assure that payment amounts are equitable and designed to promote effective and efficient provision of radiologist services by physicians in the different specialties.

"(4) SAVINGS.—

"(A) BUDGET NEUTRAL FEE SCHEDULES.—The Secretary shall develop preliminary fee schedules for 1989, which are designed to result in the same amount of aggregate payments (net of any insurance and deductibles under section 1835(a)(1)(I) and 1833(b)) for radiologist services furnished in 1989 as would have been made if this subsection had not been enacted.

"(B) INITIAL SAVINGS.—The fee schedules established for payment purposes under this subsection for services furnished in 1989 shall be 97 percent of the amounts permitted under these [30] preliminary fee schedules developed under subparagraph (A).

"(C) SUBSEQUENT UPDATING.—Radiologist services furnished in subsequent years, the fee schedules shall be the schedules for the previous year updated by the percentage increase in the MEI (as defined in section 1842(b)(4)(E)(ii)) for the year.

"(D) [31] NONPARTICIPATING PHYSICIANS.—Each fee schedule so established shall provide that the payment rate recognized for nonparticipating physicians and suppliers is equal to the appropriate percent (as defined in section 1842(b)(4)(A)(iv)) of the payment rate recognized for participating physicians and suppliers.

"(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of radiologist services furnished after January 1, 1989, for which payment is made under a fee schedule under this subsection, if a nonparticipating physician or supplier furnishes the service to an individual entitled to benefits under this part, the physician or supplier may not charge the individual more than the limiting charge (as defined in subparagraph (B)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to a service furnished—

"(i) in 1989, 125 percent of the amount specified for the service in the appropriate fee schedule established under paragraph (1),

"(ii) in 1990, 120 percent of the amount specified for the service in the appropriate fee schedule established under paragraph (1), and

"(iii) after 1990, 115 percent of the amount specified for the service in the appropriate fee schedule established under paragraph (1).

"(C) ENFORCEMENT.—If a physician or supplier knowingly and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).

"(6) [32] RADIOLOGIST SERVICES DEFINED.—For the purposes of this subsection, section 1833(a)(1)(I), and section 1842(h)(1)(B), the term 'radiologist services' only includes radiologic services performed by, or under the direction or supervision of, a physician—

"(A) who is certified, or eligible to be certified, by the American Board of Radiology, or

"(B) for whom radiologic services account for at least 50 percent of billings made under this part.".

(b) DEADLINES AND EFFECTIVE DATE.—

(1) The Secretary of Health and Human Services shall establish the relative value scale and fee schedules for radiologist services (under section 1834(b) of the Social Security Act) by not later than August 1, 1988, and shall report to Congress on the development of such fee schedules not later than August 1, 1988.

(2) The amendments made by this section shall apply to services performed on or after January 1, 1989, and until such time as the Secretary of Health and Human Services implements physician fee schedules based on the relative value scale developed under section 1845(e) of the Social Security Act.

SEC. 4050. FEE SCHEDULES FOR PHYSICIAN PATHOLOGY SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall develop—

(1) a relative value scale to serve as the basis for the payment for physician pathology services under part B of title XVIII of the Social Security Act,

(2) using such scale and appropriate conversion factors, proposed fee schedules (on a regional, statewide, or carrier service area basis) for payment for physician pathology services under such part, that could be implemented for such services furnished during 1990, and

(3) an appropriate index to be applied to updating such fee schedules annually for physician pathology services furnished in years after 1990.

(b) CONSULTATION.—In carrying out subsection (a), the Secretary shall regularly consult closely with the Physician Payment Review Commission, the College of American Pathologists, and other organizations representing physicians who furnish physician pathology services and shall share with them the data and data analysis being used to make the determinations under subsection (a), including data on variations in current medicare payments by geographic area, and by service and physician specialty.

(c) CONSIDERATION.—In developing the fee schedules under subsection (a), the Secretary shall take into consideration variations in the cost of furnishing physician pathology services among geographic areas.

(d) REPORT.—The Secretary shall report, not later than April 1, 1989, to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the relative value scale, fee schedules, and the index developed under this section. Such report shall include recommendations on how to protect medicare beneficiaries against excessive charges for physician pathology services above the payment amounts established by the fee schedules.

SEC. 4051. ELIMINATION OF MARKUP FOR CERTAIN PURCHASED SERVICES.

(a) IN GENERAL.—Section 1842 of the Social Security Act (42 U.S.C. 1935u) is amended by adding at the end the following new subsection:

"(n)(1) If a physician's bill or a request for payment for services billed by a physician includes a charge to a patient for a diagnostic test described in section 1861(s)(3) (other than a clinical diagnostic laboratory test) for which payment does not indicate that the billing physician personally performed or supervised the performance of the test or that another physician with whom the physician who shares his practice personally performed or supervised the test, the amount payable with respect to the test shall be determined as follows:

"(A) If the bill or request for payment indicates that the test was performed by a supplier, identifies the supplier, and indicates the amount the supplier charged the billing physician, payment for the test (less the applicable deductible and coinsurance amounts) shall be the actual acquisition costs (net of any discounts) or, if lower, the supplier's reasonable charge to individuals enrolled under this part for the test.

"(B) If the bill or request for payment (i) does not indicate who performed the test, or (ii) indicates that the test was performed by a supplier but does not identify the supplier or include the amount charged by the supplier, no payment shall be made under this part.

"(2) A physician may not bill an individual enrolled under this part—

"(A) any amount other than any applicable deductible and coinsurance for a diagnostic test for which payment is made pursuant to paragraph (1)(A), or

"(B) any amount for a diagnostic test for which payment may not be made pursuant to paragraph (1)(B).

"(3) If a physician knowingly and willfully in repeated cases bills one or more individuals in violation of paragraph (2), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

(b) ADJUSTMENT IN MEDICARE PREVAILING CHARGES.—

(1) REVIEW.—The Secretary of Health and Human Services shall review payment levels under part B of title XVIII of the Social Security Act for diagnostic tests (described in section 1861(s)(3) of such Act, but excluding clinical diagnostic laboratory tests) which are commonly performed by independent suppliers, sold as a service to physicians, and billed by such physicians, in order to determine the reasonableness of payment amounts for such tests (and for associated professional services component of such tests). The Secretary may require physicians and suppliers to provide such information on the purchase or sale price (net of any discounts) for such tests as is necessary to complete the review and make the adjustments under this subsection. The Secretary shall also review the reasonableness of payment levels for comparable in-office diagnostic tests.

(2) ESTABLISHMENT OF REVISED PAYMENT SCREENS.—If, as a result of such review, the Secretary determines, after notice and opportunity of at least 60 days for public comment, that the current prevailing charge levels (under the third and fourth sentences of section 1842(b) of the Social Security Act) for any such tests or associated professional services are excessive, the Secretary shall establish such charge levels at levels which, consistent with assuring that the test is widely and consistently available to medicare beneficiaries, reflect a reasonable price for the test without any markup. Al-

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[32] Copy read " '(5)".

ternatively, the Secretary, pursuant to guidelines published after notice and opportunity of at least 60 days for public comment, may delegate to carriers with contracts under section 1842 of the Social Security Act the establishment of new prevailing charge levels under this paragraph. When such charge levels are established, the provisions of section 1842(j)(1)(D) of such Act shall apply in the same manner as they apply to a reduction under section 1842(b)(8)(A) of such Act.

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to diagnostic tests performed on or after April 1, 1988.

(2) The Secretary of Health and Human Services shall complete the review and make an appropriate adjustment of prevailing charge levels under subsection (b) for items and services furnished no later than January 1, 1989.

SEC. 4052. COLLECTION OF PAST-DUE AMOUNTS OWED BY PHYSICIANS WHO BREACHED CONTRACTS UNDER THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act, as previously amended by this subtitle, is amended by adding at the end thereof the following new section:

"OFFSET OF PAYMENTS TO PHYSICIANS TO COLLECT PAST-DUE OBLIGATIONS ARISING FROM BREACH OF SCHOLARSHIP CONTRACT

"SEC. 1892. (a) IN GENERAL.—

"(1)(A) Subject to subparagraph (B), the Secretary shall enter into an agreement under this section with any physician who, by reason of a breach of a contract entered into by such physician pursuant to the National Health Service Corps Scholarship Program, owes a past-due obligation to the United States (as defined in subsection (b)).

"(B) The Secretary shall not enter into an agreement with a physician under this section to the extent—

"(i)(I) the physician has entered into a contract with the Secretary pursuant to section 204(a)(1) of the Public Health Service Amendments of 1987, and

"(II) the physician has fulfilled or (as determined by the Secretary) is fulfilling the terms of such contract; or

"(ii) the liability of the physician under such section 204(a)(1) has otherwise been relieved under such section; or

"(iii) the physician is performing such physician's service obligation under a forbearance agreement entered into with the Secretary under subpart II of part D of title III of the Public Health Service Act.

"(2) The agreement under this section shall provide that—

"(A) deductions shall be made from the amounts otherwise payable to the physician under this title, in accordance with a formula and schedule agreed to by the Secretary and the physician, until such past-due obligation (and accrued interest) have been repaid;

"(B) payment under this title for services provided by such physician shall be made only on an assignment-related basis;

"(C) if the physician does not provide services, for which payment would otherwise be made under this title, of a sufficient quantity to maintain the offset collection according to the agreed upon formula and schedule—

"(i) the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and

"(ii) subject to paragraph (3), the Secretary shall immediately exclude the physician from the program under this title, until such time as the entire past-due obligation has been repaid.

"(3) If the physician refuses to enter into an agreement or breaches any provision of the agreement—

"(A) the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and

"(B) subject to paragraph (3), the Secretary shall immediately exclude the physician from the program under this title, until such time as the entire past-due obligation has been repaid.

"(4) The Secretary shall not bar a physician pursuant to paragraph (2)(C)(ii) or paragraph (3)(B) if such physician is a sole community physician or sole source of essential specialized services in a community.

"(b) PAST-DUE OBLIGATION.—For purposes of this section, a past-due obligation is any amount—

"(1) owed by a physician to the United States by reason of a breach of a scholarship contract under section 338E of the Public Health Service Act, and

"(2) which has not been paid by the deadline established by the Secretary pursuant to section 338E of the Public Health Service Act, and has not been canceled, waived, or suspended by the Secretary pursuant to such section.

"(c) COLLECTION UNDER THIS SECTION SHALL NOT BE EXCLUSIVE.—This section shall not preclude the United States from applying other provisions of law otherwise applicable to the collection of obligations owed to the United States, including (but not limited to) the use of tax refund offsets pursuant to section 3720A of title 31, United States Code, and the application of other procedures provided under chapter 37 of title 31, United States Code.

"(d) COLLECTION FROM PROVIDERS AND HEALTH MAINTENANCE ORGANIZATIONS.—

"(1) In the case of a physician who owes a past-due obligation, and who is an employee of, or affiliated by a medical services agreement with, a provider having an agreement under section 1866 or a health maintenance organization or competitive medical plan having a contract under section 1833 or section 1876, the Secretary shall deduct the amounts of such past-due obligation from amounts otherwise payable under this title to such provider, organization, or plan.

"(2) Deductions shall be in accordance with a formula and schedule agreed to by the Secretary, the physician and the provider, organization, or plan. The deductions shall be made from the amounts otherwise payable to the physician under this title as long as the physician continued to be employed or affiliated by a medical services agreement.

"(3) Such deduction shall not be made until 6 months after the Secretary notifies the provider, organization, or plan of the amount to be deducted and the particular physicians to whom the deductions are attributable.

"(4) A deduction made under this subsection shall relieve the physician of the obligation (to the extent of the amount collected) to the United States, but the provider, organization, or plan shall have a right of action to collect from such physician the amount deducted pursuant to this subsection (including accumulated interest).

"(5) No deduction shall be made under this subsection if, within the 6-month period after notice is given to the provider, organization, or plan, the physician pays the past-due obligation, or ceases to be employed by the provider, organization, or plan.

"(6) The Secretary shall also apply the provisions of this subsection in the case of a physician who is a member of a group practice, if such group practice submits bills under this program as a group, rather than by individual physicians.

"(e) TRANSFER FROM TRUST FUNDS.—Amounts equal to the amounts deducted pursuant to this section shall be transferred from the Trust Fund from which the payment to the physician, provider, or other entity would otherwise have been made, to the general fund in the Treasury, and shall be credited as payment of the past-due obligation of the physician from whom (or with respect to whom) the deduction was made.".

(b) CONFORMING REFERENCE.—Section 338E(b)(1) of the Public Health Service Act (42 U.S.C. 254o(b)(1)) is amended by adding at the end thereof the following new sentence: "Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1892 of the Social Security Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act.

SEC. 4052. ELIMINATION OF 1975 FLOOR FOR PREVAILING PHYSICIAN CHARGES.

(a) IN GENERAL.—Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended by striking the next-to-last sentence (which begins "Notwithstanding the provisions of").

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payment for services furnished on or after January 1, 1988.

SEC. 4053. APPLICATION OF MAXIMUM ALLOWABLE ACTUAL CHARGE (MAAC).

(a) APPLICATION ON INDIVIDUAL CHARGE BASIS.—Section 1842(j)(1) of the Social Security Act (42 U.S.C. 1395u(j)(1)) is amended—

(1) in the first sentence of subparagraph (B)(i), by striking "each such physician's actual charges" and inserting "the actual charges of each such physician";

(2) in the second sentence of subparagraph (B)(i), by striking "for such a service a physician's actual charge (as defined in subparagraph (C)(vi)" and inserting "on a repeated basis for such a service an actual charge"; and

(3) in subparagraph (C)(vi), by striking "and subparagraph (B)".

(b) ADJUSTMENT.—In the case of a physician who did not have actual charges under title XVIII of the Social Security Act for a procedure in the calendar quarter beginning on April 1, 1984, but who establishes to the satisfaction of a carrier that he or she had actual charges (whether under such title or otherwise) for the procedure performed prior to June 30, 1984, the carrier shall compute the maximum allowable actual charge under section 1842(j) of the Social Security Act for such procedure performed by such physician in 1988 based on such physician's actual charges for the procedure.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to charges imposed for services furnished on or after April 1, 1988.

SEC. 4054. APPLYING COPAYMENT AND DEDUCTIBLE TO CERTAIN OUTPATIENT PHYSICIANS' SERVICES.

Notwithstanding any other provision of law, payment under part B of title XVIII of the Social Security Act for physicians' services specified in section 1833(i)(1) of such Act and furnished on or after April 1, 1988, in an ambulatory surgical center or hospital outpatient department on an assignment-related basis shall be subject to the deductible under section 1833(b) of such Act and 20 percent coinsurance.

SEC. 4055. PHYSICIAN PAYMENT STUDIES.

(a) DEFINITIONS OF MEDICAL AND SURGICAL PROCEDURES.—

(1) REPORT ON VARIATIONS IN CARRIER PAYMENT PRACTICE.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a study of variations in payment practices for physicians' services among the different carriers under section 1842 of the Social Security Act. Such study shall examine carrier variations in the services included in global fees and pre- and post-operative services included in payment for the operation. The Secretary shall report to Congress on such study by not later than May 1, 1988.

(2) UNIFORM DEFINITIONS OF PROCEDURES FOR PAYMENT PURPOSES.—The Secretary shall develop, in consultation with appropriate national medical specialty societies and by not later than July 1, 1989, uniform definitions of physicians' services (including appropriate classification scheme for procedures) which could serve as the basis for making payments for such services under part B of title XVIII of the Social Security Act. In developing such list, to the extent practicable—

(A) ancillary services commonly performed in conjunction with a major procedure would be included with the major procedure;

(B) pre- and post-procedure services would be included in the procedure; and

(C) similar procedures would be listed together if the procedures are similar in resource requirements.

(b) EXPANSION OF RELATIVE VALUE SCALE (RVS) STUDY.—

(1) ADDITIONAL SERVICES.—The Secretary shall expand the study being conducted, under section 1845(e) of the Social Security Act, to develop a relative value scale for physicians' services to include physicians' services in the fields of cardiology, dermatology, emergency medicine, gastroenterology, hematology, infectious disease, nephrology, neurology, neurosurgery, nuclear medicine, oncology, physical medicine and rehabilitation, plastic surgery, pulmonary medicine, and radiation therapy, and for physicians who specialize in osteopathic procedures.

(2) NO DELAY IN CURRENT STUDY.—The expansion under paragraph (1) shall not be conducted in a manner that delays the completion of the current study or the report to Congress required under section 1845(e)(3) of the Social Security Act. The Secretary shall report to Congress on the services described in paragraph (1) by not later than October 1, 1989.

(3) PROMPT SUBMITTAL OF STUDY RESULTS TO PHYSICIAN PAYMENT REVIEW COMMISSION.—The Secretary shall submit to the Physician Payment Review Commission a copy of any report submitted to the Secretary pursuant to a cooperative agreement in the fulfillment of the requirement of section 1845(e) of such Act, with all relevant supporting data (including survey data, analytic data files, and file documentation), by no later than 30 days after the date the final report is received by the Secretary.

(c) OTHER PHYSICIAN PAYMENT STUDIES.—

(1) FEE SCHEDULE IMPLEMENTATION.—The Secretary shall conduct a study of changes in the payment system for physicians' services, under part B of title XVIII of the Social Security Act, that would be required for the implementation of a national fee schedule for such services furnished on or after January 1, 1990. Such study shall identify any major technical problems related to such implementation and recommendations on ways in which to address such problems. The Secretary shall report to the Congress on such study by not later than July 1, 1989.

(2) VOLUME AND INTENSITY OF PHYSICIAN SERVICES.—The Secretary shall conduct a study of issues relating to the volume and intensity of physicians' services under part B of title XVIII of the Social Security Act, including—

(A) historical trends with regard to increases in the volume and intensity of physicians' services furnished on a per enrollee basis (with appropriate adjustments to account for changes in the demographic composition of the medicare population);

(B) geographic variations in volume and intensity in physicians' services;

(C) an analysis of the effectiveness of methods currently used under such part to ensure that payments under such part are made only for services which are medically necessary;

(D) the development and analysis of alternative methods to control the volume of services; and

(E) the impact of the implementation of the relative value scale developed under section 1845(e) of such Act on the volume and intensity of physicians' services.

The Secretary shall submit to Congress an interim report on such study not later than May 1, 1988, and a final report on such study not later than May 1, 1989.

(3) SURVEY OF OUT-OF-POCKET COSTS OF MEDICARE BENEFICIARIES FOR HEALTH CARE SERVICES.—The Secretary shall conduct a survey to determine the distribution of—

(A) the liabilities and expenditures for health care services of individuals entitled to benefits under title XVIII of the Social Security Act, including liabilities for charges (not paid on an assignment-related basis) in excess of the reasonable charge recognized, and

(B) the collection rates among different classes of physicians for such liabilities, including collection rates for required coinsurance and for charges (not paid on an assignment-related basis) in excess of the reasonable charge recognized.

The Secretary shall report to Congress on such study by not later than July 1, 1990.

(d) STUDY OF PAYMENT FOR CHEMOTHERAPY IN PHYSICIANS' OFFICES.—

(1) IN GENERAL.—The Secretary shall study ways of modifying part B of title XVIII of the Social Security Act to permit adequate payment under such part for the costs associated with providing chemotherapy to cancer patients in physicians' offices. The study shall be performed in consultation with physicians and other health care providers who are experts in cancer therapy and with representation of health insurers who have experience in these payment issues.

(2) REPORT.—The Secretary shall report to Congress on the results of the study by not later than April 1, 1989.

Subpart B—Provisions Relating to Payments for Other Services

SEC. 4061. EXTENSION OF REDUCTION FOR OTHER PART B ITEMS AND SERVICES PAYMENTS UNDER SEQUESTER ORDER.

Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through March 31, 1988, with respect to payments for all items and services (other than physicians' services) under part B of such title.

SEC. 4062. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.

(a) 1-YEAR FREEZE ON CHARGE LIMITATIONS.—

(1) IN GENERAL.—In imposing limitations on allowable charges for items and services (other than physicians' services) furnished in 1988 under part B of title XVIII of such Act and for which payment is made on the basis of the reasonable charge for the item or service, the Secretary of Health and Human Services shall not impose any limitation at a level higher than the same level as was in effect in December 1987.

(2) TRANSITION.—The provisions of section 4041(a)(2) (other than subparagraph (D) thereof) of this subtitle shall apply to suppliers of items and services described in paragraph (1), and directories of participating suppliers of such items and services, in the same manner as such section applies to physicians furnishing physicians' services, and directories of participating physicians.

(b) AMOUNT AND FREQUENCY OF PAYMENT FOR DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.—Part B of title XVIII of the Social Security Act is amended by inserting after section 1833 the following new section:

"SPECIAL PAYMENT RULES FOR PARTICULAR SERVICES

"SEC. 1834. (a) PAYMENT FOR DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.—

"(1) GENERAL RULE FOR PAYMENT.—

"(A) IN GENERAL.—With respect to a covered item (as defined in paragraph (13)) for which payment is determined under this subsection, payment shall be made in the frequency specified in paragraphs (2) through (7) and in an amount equal to 80 percent of the payment basis described in subparagraph (B).

"(B) PAYMENT BASIS.—The payment basis described in this subparagraph is the lesser of—

"(i) the actual charge for the item, or

"(ii) the payment amount recognized under paragraphs (2) through (7) of this subsection for the item;

except that clause (i) shall not apply if the covered item is furnished by a public home health agency (or by another home health agency which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low income) free of charge or at nominal charges to the public.

"(C) EXCLUSIVE PAYMENT RULE.—This subsection shall constitute the exclusive provision of this title for payment for covered items under this part.

"(2) PAYMENT FOR INEXPENSIVE AND OTHER ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT.—

"(A) IN GENERAL.—Payment for an item of durable medical equipment (as defined in paragraph (13)(A))—

"(i) the purchase price of which does not exceed $150, or

"(ii) which the Secretary determines is acquired at least 75 percent of the time by purchase,

shall be made on a rental basis or in a lump-sum amount for the purchase of the item. The payment amount recognized for purchase or rental of such equipment is the amount specified in subparagraph (B) for purchase or rental, except that the total amount of rental payments with respect to an item may not exceed the payment amount specified in subparagraph (B) with respect to the purchase of the item.

"(B) PAYMENT AMOUNT.—For purposes of subparagraph (A), the amount specified in this subparagraph, with respect to the purchase or rental of an item furnished in a carrier service area—

"(i) in 1989 is the average allowed charge in the area for the purchase or rental, respectively, of the item for the 12-month period ending on June 30, 1987, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987; or

"(ii) in a subsequent year, is the amount specified in this subparagraph for the preceding year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of that preceding year.

"(3) PAYMENT FOR ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—

"(A) IN GENERAL.—Payment for a covered item (such as ventilators, aspirators, IPPB machines, and nebulizers) for which there must be frequent and substantial servicing in order to avoid risk to the patient's health shall be made on a monthly basis for the rental of the item and the amount recognized is the amount specified in subparagraph (B).

"(B) PAYMENT AMOUNT.—For purposes of subparagraph (A), the amount specified in this subparagraph, with respect to an item or device furnished in a carrier service area—

"(i) in 1989 is the average allowable charge in the area for the rental of the item or device for the 12-month period ending with June 1987,[33] increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987; or

"(ii) in a subsequent year, is the amount specified in this subparagraph for the preceding year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of that preceding year.

"(4) PAYMENT FOR CERTAIN CUSTOMIZED ITEMS.—Payment with respect to a covered item that is uniquely constructed or substantially modified to meet the specific needs of an individual patient shall be made in a lump-sum [34] amount for the purchase of the item in a payment amount based upon the carrier's individual consideration for that item, and for the reasonable and necessary maintenance and service for parts and labor not covered by the supplier's or manufacturer's warranty, when necessary during the period of medical need, and the amount recognized for such maintenance and service shall be paid on a lump-sum, as needed basis based upon the carrier's individual consideration for that item.

"(5) PAYMENT FOR OXYGEN AND OXYGEN EQUIPMENT.—

"(A) IN GENERAL.—Payment for oxygen and oxygen equipment shall be made on a monthly basis in the monthly payment amount recognized under paragraph (9) for oxygen and oxygen equipment (other than portable oxygen equipment), subject to subparagraphs (B) and (C).

"(B) ADD-ON FOR PORTABLE OXYGEN EQUIPMENT.—When portable oxygen equipment is used, but subject to subparagraph (D), the payment amount recognized under subparagraph (A) shall be increased by the monthly payment amount recognized under paragraph (9) for portable oxygen equipment.

"(C) VOLUME ADJUSTMENT.—When the attending physician prescribes an oxygen flow rate—

"(i) exceeding 4 liters per minute, the payment amount recognized under subparagraph (A), subject to subparagraph (D), shall be increased by 50 percent, or

"(ii) of less than 1 liter per minute, the payment amount recognized under subparagraph (A) shall be decreased by 50 percent.

"(D) LIMIT ON ADJUSTMENT.—When portable oxygen equipment is used and the attending physician prescribes an oxygen flow rate exceeding 4 liters per minute, there shall only be an increase under either subparagraph (B) or (C), whichever increase is larger, and not under both such subparagraphs.

"(6) PAYMENT FOR OTHER COVERED ITEMS (OTHER THAN DURABLE MEDICAL EQUIPMENT).—Payment for other covered items (other than durable medical equipment and other covered items described in paragraph (3), (4), or (5)) shall be made in a lump-sum amount for the purchase of the item in the amount of the purchase price recognized under paragraph (8).

"(7) PAYMENT FOR OTHER ITEMS OF DURABLE MEDICAL EQUIPMENT.—

"(A) IN GENERAL.—In the case of an item of durable medical equipment not described in paragraphs (2) through (6)—

"(i) payment shall be made on a monthly basis for the rental of such item during the period of medical need (but payments under this subparagraph may not extend over a period of continuous use of longer than 15 months), and, subject to subparagraph (B), the amount recognized for each such month is 10 percent of the purchase price recognized under paragraph (8) with respect to the item;

"(ii) during the succeeding 6-month period of medical need, no payment shall be made for rental or servicing of the item; and

"(iii) during the first month of each succeeding 6-month period of medical need, a service and maintenance payment may be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the particular type of durable medical equipment) and the amount recognized for each such 6-month period is the lower of (I) a reasonable and necessary maintenance and servicing fee established by the carrier, or (II) 10 percent of the total of the purchase price recognized under paragraph (8) with respect to the item.

The Secretary shall determine the meaning of the term 'continuous' in subparagraph (A).

"(B) RANGE FOR RENTAL AMOUNTS.—

"(i) FOR 1989.—For items furnished during 1989, the payment amount recognized under subparagraph (A)(i) shall not be more than 115 percent, and shall not be less than 85 percent, of the prevailing charge established for rental of the item January 1987, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987.

"(ii) FOR 1990.—For items furnished during 1990, the payment amount recognized under subparagraph (A)(i) shall not be more than the maximum amount established under clause (i), and shall not be less than the minimum amount established under such clause, for 1989, each such amount increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June 1989.

"(8) PURCHASE PRICE RECOGNIZED FOR MISCELLANEOUS DEVICES AND ITEMS.—For purposes of paragraphs (6) and (7), the amount that is recognized under this paragraph as the purchase price for a covered item is the amount described in subparagraph (C) of this paragraph, determined as follows:

"(A) COMPUTATION OF LOCAL PURCHASE PRICE.—Each carrier under section 1842 shall compute a base local purchase price for the item as follows:

"(i) The carrier shall compute a base local purchase price, for each item described—

"(I) in paragraph (6) equal to the average allowable charge in the locality for the purchase of the item for the 12-month period ending with June 1987, or

"(II) in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.

"(ii) The carrier shall compute a local purchase price, with respect to the furnishing of each particular item—

"(I) in 1989, equal to the base local purchase price computed under clause (i) increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987, or

"(II) in 1990, 1991, or 1992, equal to the local purchase price computed under this clause for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(B) COMPUTATION OF REGIONAL PURCHASE PRICE.—With respect to the furnishing of a particular item in each region (as defined in section 1886(d)(2)(D)), the Secretary shall compute a regional purchase price—

"(i) for 1991, and for 1992, equal to the average (weighted by relative volume of all claims among carriers) of the local purchase prices for the carriers in the region computed under subparagraph (A)(ii)(II) for the year, and

"(ii) for each subsequent year, equal to the regional purchase price computed under this subparagraph for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month

[33] Copy read "June, 1987,".
[34] Copy read "lump sum".

period ending with June of the previous year.

"(C) PURCHASE PRICE RECOGNIZED.—For purposes of paragraphs (6) and (7) and subject to subparagraph (D), the amount that is recognized under this paragraph as the purchase price for each item furnished—

"(i) in 1989 or 1990, is 100 percent of the local purchase price computed under subparagraph (A)(ii)(I);

"(ii) in 1991, is the sum of (I) 75 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1991, and (II) 25 percent of the regional purchase price computed under subparagraph (B) for 1991;

"(iii) in 1992, is the sum of (I) 50 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1992, and (II) 50 percent of the regional purchase price computed under subparagraph (B) for 1992; and

"(iv) in 1993 or a subsequent year, is the regional purchase price computed under subparagraph (B) for that year.

"(D) RANGE ON AMOUNT RECOGNIZED.—The amount that is recognized under subparagraph (C) as the purchase price for an item furnished—

"(i) in 1991, may not exceed 130 percent, and may not be lower than 80 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year; and

"(ii) in a subsequent year, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year.

"(9) MONTHLY PAYMENT AMOUNT RECOGNIZED WITH RESPECT TO OXYGEN AND OXYGEN EQUIPMENT.—For purposes of paragraph (5), the amount that is recognized under this paragraph for payment for oxygen and oxygen equipment is the monthly payment amount described in subparagraph (C) of this paragraph. Such amount shall be computed separately (i) for all items of oxygen and oxygen equipment (other than portable oxygen equipment) and (ii) for portable oxygen equipment (each such group referred to in this paragraph as an 'item').

"(A) COMPUTATION OF LOCAL MONTHLY PAYMENT RATE.—Each carrier under this section shall compute a base local payment rate for each item as follows:

"(i) The carrier shall compute a base local average monthly payment rate per beneficiary as an amount equal to (I) the total reasonable charges for the item during the 12-month period ending with December 1986, divided by (II) the total number of months for all beneficiaries receiving the item in the area during the 12-month period for which the carrier made payment for the item under this title.

"(ii) The carrier shall compute a local average monthly payment rate for the item applicable—

"(I) to 1989, equal to 95 percent of the base local average monthly payment rate computed under clause (i) for the item increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987, or

"(II) to 1990 and to 1991, equal to the local average monthly payment rate computed under this clause for the item for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(B) COMPUTATION OF REGIONAL MONTHLY PAYMENT RATE.—With respect to the furnishing of an item in each region (as defined in section 1886(d)(2)(D)), the Secretary shall compute a regional monthly payment rate—

"(i) for 1991, and 1992, equal to the average (weighted by relative volume of all claims among carriers) of the local monthly payment rates for the carriers in the region computed under subparagraph (A)(ii)(II) for the year, and

"(ii) for each subsequent year, equal to the regional monthly payment rates computed under this subparagraph for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(C) MONTHLY PAYMENT AMOUNT RECOGNIZED.—For purposes of paragraph (5), the amount that is recognized under this paragraph as the base monthly payment amount for each item furnished—

"(i) in 1989 and in 1990, is 100 percent of the local average monthly payment rate computed under subparagraph (A)(ii)(I) for the item;

"(ii) in 1991, is the sum of (I) 75 percent of the local average monthly payment rate computed under subparagraph (A)(ii)(II) for the item for 1991, and (II) 25 percent of the regional monthly payment rate computed under subparagraph (B)(i) for the item for 1991;

"(iii) in 1992, is the sum of (I) 50 percent of the local average monthly payment rate computed under subparagraph (A)(ii)(II) for the item for 1992, and (II) 50 percent of the regional monthly payment rate computed under subparagraph (B)(i) for the item for 1992; and

"(iv) in a subsequent year, is the regional monthly payment rate computed under subparagraph (B) for the item for that year.

"(D) RANGE ON AMOUNT RECOGNIZED.—The amount that is recognized under subparagraph (C) as the base monthly payment amount for an item furnished—

"(i) in 1991, may not exceed 130 percent, and may not be lower than 80 percent, of the average of the base monthly payment amounts recognized under such subparagraph for all the carrier service areas in the United States in that year; and

"(ii) in a subsequent year, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the base monthly payment amounts recognized under such subparagraph for all the carrier service areas in the United States in that year.

"(10) EXCEPTIONS AND ADJUSTMENTS.—

"(A) AREAS OUTSIDE CONTINENTAL UNITED STATES.—Exceptions to the amounts recognized under the previous provisions of this subsection shall be made to take into account the unique circumstances of covered items furnished in Alaska, Hawaii, or Puerto Rico.

"(B) ADJUSTMENT FOR INHERENT REASONABLENESS.—For covered items furnished on or after January 1, 1991, the Secretary is authorized to apply the provisions of paragraphs (8) and (9) (other than subparagraph (D)) of section 1842(b) to covered items and suppliers of such items.

"(C) TRANSCUTANEOUS ELECTRICAL NERVE STIMULATOR (TENS).—In order to permit an attending physician time to determine whether the purchase of a transcutaneous electrical nerve stimulator is medically appropriate for a particular patient, the Secretary may determine an appropriate payment amount for the initial rental of such item for a period of not more than 2 months. If such item is subsequently purchased, the payment amount with respect to such purchase is the payment amount determined under paragraph (2).

"(11) IMPROPER BILLING AND REQUIREMENT OF PHYSICIAN ORDER.—

"(A) IMPROPER BILLING FOR CERTAIN RENTAL ITEMS.—Notwithstanding any other provision of this title, a supplier of a covered item for which payment is made under this subsection and which is furnished on a rental basis shall continue to supply the item without charge (other than a charge provided under this subsection for the servicing of the item) after rental payments may no longer be made under this subsection. If a supplier knowingly and willfully violates the previous sentence, the Secretary may apply sanctions against the supplier under subsection (j)(2) in the same manner such sanctions may apply with respect to a physician.

"(B) REQUIREMENT OF PHYSICIAN ORDER.—The Secretary is authorized to require, for specified covered items, that payment may be made under this subsection with respect to the item only if a physician has communicated to the supplier, before delivery of the item, a written order for the item.

"(12) REGIONAL CARRIERS.—The Secretary may designate, by regulation under section 1842, one carrier for each region (as defined in section 1886(d)(2)(D)) to process all claims within the region for covered items under this section.

"(13) COVERED ITEM.—In this subsection, the term 'covered item' means—

"(A) durable medical equipment (as defined in section 1861(n)), including such equipment described in section 1861(m)(5);

"(B) prosthetic devices (described in section 1861(s)(8)), but not including parenteral and enteral nutrition nutrients, supplies, and equipment; and

"(C) orthotics and prosthetics (described in section 1861(s)(9));

but does not include intraocular lenses.

"(14) CARRIER.—In this subsection, any reference to the term 'carrier' includes a reference, with respect to durable medical equipment furnished by a home health agency as part of home health services, to a fiscal intermediary.".

(c) STUDY AND EVALUATION.—(1) The Secretary of Health and Human Services shall monitor the impact of the amendments made by this section on the availability of covered items and shall evaluate the appropriateness of the volume adjustment for oxygen and oxygen equipment under section 1834(a)(5)(C) of the Social Security Act (as amended by subsection (b) of this section). The Secretary shall report to Congress, by not later than January 1, 1991, on such impact and on the evaluation and shall include in such report recommendations for changes in payment methodology for covered items under section 1834(a) of such Act.

(2) Before January 1, 1991, the Secretary may not conduct any demonstration project respecting alternative methods of payment for covered items under title XVIII of the Social Security Act.

(3) In this subsection, the term "covered item" has the meaning given such term in section 1834(a)(13) of the Social Security Act (as amended by subsection (b) of this section).

(4) The Secretary shall, upon written request, provide the data and information used in determining the payment amounts

for covered items under section 1834(a) of the Social Security Act.

(5) The Comptroller General shall conduct a study on the appropriateness of the level of payments allowed for covered items under the medicare program, and shall report to Congress on the results of such study (including recommendations on the transition to regional or national rates) by not later than January 1, 1991. Entities furnishing such items which fail to provide the Comptroller General with reasonable access to necessary records to carry out the study under this paragraph are subject to exclusion from the medicare program under section 1128(a) of the Social Security Act.

(d) CONFORMING AMENDMENTS.—

(1) Section 1814 of such Act (42 U.S.C. 1395f) is amended—

(A) in subsection (j)(2)(B), by amending subparagraph (B) to read as follows:

"(B) Section 1834(a)(1)(B).", and

(B) in subsection (k), by striking all that follows "shall be" and insert "the amount described in section 1834(a)(1).".

(2) Section 1832(a) of such Act (42 U.S.C. 1395k(a)) is amended—

(A) in paragraph (2)(A), by inserting "(other than items described in subparagraph (G))" after "services";

(B) in paragraph (2)(B), by inserting "(other than items described in subparagraph (G))" after "medical and other health services"; and

(C) in paragraph (2)—

(i) by striking "and" at the end of subparagraph (E),

(ii) by striking the period at the end of subparagraph (F) and inserting "; and", and

(iii) by adding at the end the following new subparagraph:

"(G) covered items (described in section 1834(a)(13)) furnished by a provider of services or by others under arrangements with them made by a provider of services.".

(3) Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended—

(A) in paragraph (1)—

(i) by striking "; and" at the end of clause (G) and inserting a comma, and

(ii) by adding at the end the following: "and (I) with respect to covered items (described in section 1834(a)(13)), the amounts paid shall be the amounts described in section 1834(a)(1),";

(B) in paragraph (2)—

(i) by striking "and (F)" and inserting "(F), and (G)", and

(ii) in subparagraph (A), by striking "(other than durable medical equipment)";

[34a] (C) by striking "and" at the end of paragraph (3);

[34b] (D) by striking the period at the end of paragraph (4) and inserting "; and"; and

[34c] (E) by adding at the end the following new paragraph:

"(5) in the case of covered items (described in section 1834(a)(13)) the amounts described in section 1834(a)(1).".

(4) Section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence of this subparagraph, a home health agency may charge such an individual or person, with respect to covered items subject to payment under section 1834(a), the amount of any deduction imposed under section 1833(b) and 20 percent of the payment basis described in section 1834(a)(2).".

(5) Section 1889 of such Act (42 U.S.C. 1395zz) is repealed.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to covered items furnished on or after January 1, 1989.

SEC. 4063. PAYMENT FOR INTRAOCULAR LENSES.

(a) PROVIDED IN PHYSICIAN'S OFFICE.—Section 1842 of the Social Security Act (42 U.S.C. 1395u), as previously amended is amended—

(1) in subsection (b)(11)(C), as inserted by section 4046(a)(1)(C) of this subtitle—

(A) by inserting "(i)" after "(C)" and by adding at the end the following new clause:

"(ii) The reasonable charge for an intraocular lens implanted during cataract surgery in a physician's office may not exceed the actual acquisition cost for the lens (taking into account any discount) plus a handling fee (not to exceed 5 percent of such actual acquisition cost).", and

(b) [35] in subparagraph (D), as so redesignated and as amended by section 4046(a)(1) of this subtitle, by inserting "or item" after "service" or "services" each place either appears; and

(2) in subsection (j)(1)(D), as added by section 4045(c)(1)(B) of this subtitle and as amended by 4046(a)(2) of this subtitle—

(A) in clause (ii), by striking "and" at the end of subclause (IV), by redesignating subclause (V) as subclause (VI) and by inserting before such subclause the following new subclause:

"(IV) a reasonable charge limit is established under subsection (b)(11)(C)(ii), and"; and

(B) in clause (iii)—

(i) by striking "or" at the end of subclause (I),

(ii) in subclause (II), by striking "(b)(11)(C)" and inserting "(b)(11)(C)(i)",

(iii) by striking the period at the end of subclause (II) and inserting "; or", and

(iv) by adding at the end the following new subclause:

"(III) under subsection (b)(11)(C)(ii), the payment allowance established under such subsection.".

(b) PROVIDED IN AMBULATORY SURGICAL CENTERS.—Section 1833(i)(2)(A) of such Act (42 U.S.C. 1395l(i)(2)(A)) is amended—

(1) by striking "and" at the end of clause (i),

(2) by striking the period at the end of clause (ii) and inserting ", and", and

(3) by inserting after clause (ii) the following new clause:

"(iii) in the case of implantation of an intraocular lens during cataract surgery includes payment which is reasonable and related to the cost of acquiring the class of lens involved.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after July 1, 1988.

(d) SPECIAL RULE.—With respect to the establishment of a reasonable charge limit under section 1842(b)(11)(C)(ii) of the Social Security Act, in applying section 1842(j)(1)(D)(i) of such Act, the matter beginning with "plus" shall be considered to have been deleted.

SEC. 4064. CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) LIMITATION ON CHANGES IN FEE SCHEDULES.—

(1) 3-MONTH FREEZE IN FEE SCHEDULES.—Notwithstanding any other provision of law, any change in the fee schedules for clinical laboratory diagnostic laboratory tests under part B of title XVIII of such Act which would have become effective for tests furnished on or after January 1, 1988, shall not be effective for tests furnished during the 3-month period beginning on January 1, 1988.

(2) NO CPI INCREASE IN 1988.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not adjust the fee schedules established under section 1833(h) of the Social Security Act for 1988 to take into account any increase in the consumer price index.

(b) FEE SCHEDULES AND PAYMENT LIMITS.—

(1) REBASING OF FEE SCHEDULES FOR CERTAIN AUTOMATED AND SIMILAR TESTS.—Section 1833(h)(2) of the Social Security Act (42 U.S.C. 1395l(h)(2)) is amended by adding at the end the following: "In establishing fee schedules under the first sentence of this paragraph with respect to automated tests and tests (other than cytopathology tests) which before July 1, 1984, the Secretary made subject to a limit based on lowest charge levels under the sixth sentence of section 1842(b)(3) performed after March 31, 1988, the Secretary shall reduce by 8.3 percent the fee schedules otherwise established for 1988.".

(2) NATIONWIDE PAYMENT LIMITS.—Section 1833(h)(4)(B) of such Act is amended—

(A) in clause (i), by striking "January" and inserting "April", and

(B) by amending clause (ii) to read as follows:

"(ii) March 31, 1988, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(3) EFFECTIVE DATES.—The amendments made by paragraphs (1) and (2) shall apply with respect to services furnished on or after April 1, 1988.

(4) GAO STUDY OF FEE SCHEDULES.—The Comptroller General shall conduct a study of the level of the fee schedules established for clinical diagnostic laboratory services under section 1833(h)(2) of the Social Security Act to determine, based on the costs of, and revenues received for, such tests the appropriateness of such schedules. The Comptroller General shall report to the Congress on the results of such study by not later than January 1, 1990. Suppliers of such tests which fail to provide the Comptroller General with reasonable access to necessary records to carry out the study under this paragraph are subject to exclusion from the medicare program under section 1128(a) of the Social Security Act.

(c) LIMITATION ON APPLICATION OF 2 PERCENT HOSPITAL LAB DIFFERENTIAL.—Section 1833(h)(2) of such Act is amended by striking "hospital laboratory" and inserting "laboratory in a sole community hospital".

(d) INTERMEDIATE SANCTIONS.—

(1) Part B of title XVIII of such Act is amended by adding at the end thereof the following new section:

"INTERMEDIATE SANCTIONS FOR PROVIDERS OF CLINICAL DIAGNOSTIC LABORATORY TESTS

"SEC. 1846. (a) If the Secretary determines that any provider or clinical laboratory certified for participation under this title no longer substantially meets the conditions of participation specified under this title with respect to the provision of clinical diagnostic laboratory tests under this part, the Secretary may (for a period not to exceed one year) impose intermediate sanctions developed pursuant to subsection (b), in lieu of

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[34a] Copy read "(B)".
[34b] Copy read "(C)".
[34c] Copy read "(D)".

[35] Copy read "(C)".

canceling immediately the certification of the provider or clinical laboratory.

"(b)(1) The Secretary shall develop and implement—

"(A) a range of intermediate sanctions to apply to providers or certified clinical laboratories under the conditions described in subsection (a), and

"(B) appropriate procedures for appealing determinations relating to the imposition of such sanctions.

"(2)(A) The intermediate sanctions developed under paragraph (1) shall include—

"(i) directed plans of correction,

"(ii) civil fines and penalties,

"(iii) payment for the costs of onsite monitoring by an agency responsible for conducting certification surveys, and

"(iv) suspension of all or part of the payments to which a provider or certified clinical laboratory would otherwise be entitled under this title with respect to clinical diagnostic laboratory tests provided on or after the date in which the Secretary determines that intermediate sanctions should be imposed pursuant to subsection (a).[36]

"(B) The sanctions specified in subparagraph (A) are in addition to sanctions otherwise available under State or Federal law.

"(3) The Secretary shall develop and implement specific procedures with respect to when and how each of the intermediate sanctions developed under paragraph (1) is to be applied, the amounts of any fines, and the severity of each of these penalties. Such procedures shall be designed so as to minimize the time between identification of violations and imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.".

(2) The amendment made by paragraph (1) shall become effective on January 1, 1990.

(e) STATE CERTIFICATION OF HIGH-VOLUME PHYSICIAN OFFICE LABS.—

(1) Section 1861(s) of such Act (42 U.S.C. 1395x(s)) is amended, in the sentence following paragraph (11), by inserting "a laboratory not independent of a physician's office that has a volume of clinical diagnostic laboratory tests exceeding 5,000 per year" after "physician's office,".

(2) The amendment made by paragraph (1) shall apply to diagnostic tests performed on or after January 1, 1990.

SEC. 4065. RETURN ON EQUITY PAYMENTS TO OUTPATIENT DEPARTMENTS.

(a) IN GENERAL.—Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end thereof the following new subparagraph:

"(S) Such regulations shall not include provision for specific recognition of any return on equity capital with respect to hospital outpatient departments.".

(b) CONFORMING AMENDMENT.—Section 1881(b)(2)(C) of such Act (42 U.S.C. 1395rr(b)(2)(C)) is amended by striking "facilities" and inserting "facilities (other than hospital outpatient departments)".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1988.

SEC. 4066. PAYMENTS TO HOSPITAL OUTPATIENT DEPARTMENTS FOR RADIOLOGY.

(a) AMOUNTS PAYABLE.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(2)—

(A) by striking "and" in subparagraph (C),

(B) by adding "and" at the end of subparagraph (D), and

(C) by adding at the end thereof the following new subparagraph:

"(E) with respect to—

"(i) outpatient hospital radiology services (including diagnostic and therapeutic radiology, nuclear medicine and CAT scan procedures, magnetic resonance imaging, and ultrasound and other imaging services), and

"(ii) effective for procedures performed on or after October 1, 1989, diagnostic procedures (as defined by the Secretary) described in section 1861(s)(3) (other than diagnostic x-ray tests and diagnostic laboratory tests),

the amount determined under subsection (n);"; and

(2) by adding at the end, as previously amended, the following new subsection:

"(n)(1)(A) The aggregate amount of the payments to be made for all or part of a cost reporting period beginning on or after October 1, 1988 under this part for services described in subsection (a)(2)(E) shall be equal to the lesser of—

"(i) the amount determined with respect to such services under subsection (a)(2)(B), or

"(ii) the blend amount for radiology services and diagnostic procedures determined in accordance with subparagraph (B).

"(B)(i) The blend amount for radiology services and diagnostic procedures for a cost reporting period is the sum of—

"(I) the cost proportion (as defined in clause (ii)) of the amount described in subparagraph (A)(i); and

"(II) the charge proportion (as defined in clause (ii)(II)) of 62 percent (for services described in subsection (a)(2)(E)(i)), or (for procedures described in subsection (a)(2)(E)(ii)), 42 percent or such other percent established by the Secretary (or carriers acting pursuant to guidelines issued by the Secretary) based on prevailing charges established with actual charge data, of 80 percent of the prevailing charge for participating physicians for the same services as if they were furnished in a physician's office in the same locality as determined under section 1842(b).

"(ii) In this subparagraph:

"(I) The term 'cost proportion' means 65 percent for all or any part of cost reporting periods which occur in fiscal year 1989 and 50 percent for other cost reporting periods.

"(II) The term 'charge proportion' means 35 percent for all or any parts of cost reporting periods which occur in fiscal year 1989 and 50 percent for other cost reporting periods.".

(b) CONFORMING AMENDMENT.—Section 1833(a)(2)(B) of such Act (42 U.S.C. 1395l(a)(2)(B)) is amended in the matter preceding clause (i) by striking "(C) or (D)" and inserting "(C), (D), or (E)".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to outpatient hospital radiology services furnished on or after October 1, 1988, and other diagnostic procedures performed on or after October 1, 1989.

SEC. 4067. UPDATING MAXIMUM RATE OF PAYMENT PER VISIT FOR INDEPENDENT RURAL HEALTH CLINICS.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is further amended by inserting after subsection (e) the following new subsection:

"(f) In establishing limits under subsection (a) on payment for rural health clinic services provided by independent rural health clinics, the Secretary shall establish such limit, for services provided—

"(1) in 1988, after March 31, at $46, and

"(2) in a subsequent year, at the limit established under this subsection for the previous year increased by the percentage increase in the medicare economic index (referred to in the fourth sentence of section 1842(b)(3)) applicable to physicians' services furnished as of the first day of that year.".

(b) REPORT ON RATES.—The Secretary of Health and Human Services shall report to Congress, by not later than March 1, 1989, on the adequacy of the amounts paid under title XVIII of the Social Security Act for rural health clinic services provided by independent rural health clinics.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after April 1, 1988.

SEC. 4068. PAYMENT FOR AMBULATORY SURGERY AT EYE, AND EYE AND EAR, SPECIALTY HOSPITALS.

(a) IN GENERAL.—Section 1833(i)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended—

(1) by striking "In" and inserting "Subject to the last sentence of this clause, in"; and

(2) by adding at the end thereof the following:

"In the case of a hospital that makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary), receives more than 30 percent of its total revenues from outpatient services and was an eye specialty hospital or an eye and ear specialty hospital on October 1, 1987, the cost proportion and ASC proportion in effect under subclauses (I) and (II) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning in fiscal year 1989 or fiscal year 1990.".

(b) DEVELOPMENT OF PROSPECTIVE PAYMENT METHODOLOGY FOR OUTPATIENT HOSPITAL SERVICES.—Section 1135(d) of the Social Security Act (42 U.S.C. 1320b-5(d)) is amended—

(1) by adding at the end of paragraph (3) the following: "In establishing such rates, the Secretary shall consider whether a differential payment rate is appropriate for speciality hospitals."; and

(2) by adding at the end the following new paragraph:

"(7) The Secretary shall solicit the views of the Prospective Payment Assessment Commission in developing the systems under paragraphs (1) and (6), and shall include in the Secretary's reports under this subsection any views the Commission may submit with respect to such systems.".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the amendment made by section 9343(a)(1)(B) of the Omnibus Budget Reconciliation Act of 1986.

Subpart C—Eligibility and Benefits Changes

SEC. 4070. COVERAGE OF MENTAL HEALTH SERVICES.

(a) OUTPATIENT SERVICES UNDER PART B.—Section 1833(c) of the Social Security Act (42 U.S.C. 1395l(c)) is amended—

(1) by striking "$312.50" and inserting "$1375.00"; and

(2) by adding at the end thereof the following:

"For purposes of this subsection, the term 'treatment' does not include brief office visits (as defined by the Secretary) for the sole purpose of prescribing or monitoring prescription drugs used in the treatment of such disorders.".

(b) PARTIAL HOSPITALIZATION COVERAGE.—

[36] Subparagraphs "(i)", "(ii)", "(iii)", and "(iv)" indented incorrectly.

(1) Section 1861(s)(2)(B) of such Act (42 U.S.C. 1395x(s)(2)(B)) is amended by inserting "and partial hospitalization services incident to such services" before the semicolon.

(2) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"(ff)(1) The term 'partial hospitalization services' means the items and services described in paragraph (2) prescribed by a physician and provided under a program described in paragraph (3) under the supervision of a physician pursuant to an individualized, written plan of treatment established and periodically reviewed by a physician (in consultation with appropriate staff participating in such program), which plan sets forth the physician's diagnosis, the type, amount, frequency, and duration of the items and services provided under the plan, and the goals for treatment under the plan.

"(2) The items and services described in this paragraph are—

"(A) individual and group therapy with physicians or psychologists (or other mental health professionals to the extent authorized under State law),

"(B) occupational therapy requiring the skills of a qualified occupational therapist,

"(C) services of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients,

"(D) drugs and biologicals furnished for therapeutic purposes (which cannot, as determined in accordance with regulations, be self-administered),

"(E) individualized activity therapies that are not primarily recreational or diversionary,

"(F) family counseling (the primary purpose of which is treatment of the individual's condition),

"(G) patient training and education (to the extent that training and educational activities are closely and clearly related to individual's care and treatment),

"(H) diagnostic services, and

"(I) such other items and services as the Secretary may provide (but in no event to include meals and transportation);

that are reasonable and necessary for the diagnosis or active treatment of the individual's condition, reasonably expected to improve or maintain the individual's condition and functional level and to prevent relapse or hospitalization, and furnished pursuant to such guidelines relating to frequency and duration of services as the Secretary shall by regulation establish (taking into account accepted norms of medical practice and the reasonable expectation of patient improvement).

"(3) A program described in this paragraph is a program which is hospital-based or hospital-affiliated (as defined by the Secretary) and which is a distinct and organized intensive ambulatory treatment service offering less than 24-hour-daily care.".

(3) Section 1835(a)(2) of such Act (42 U.S.C. 1395n(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of partial hospitalization services, (i) the individual would require inpatient psychiatric care in the absence of such services, (ii) an individualized, written plan for furnishing such services has been established by a physician and is reviewed periodically by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(4) Section 1833(c) of such Act, as amended by subsection (a), is further amended at the end thereof by inserting "or partial hospitalization services that are not directly provided by a physician" before the period.

(c) EFFECTIVE DATE; IMPLEMENTATION.—

(1) The amendment made by subsection (a)(1) shall apply with respect to calendar years beginning with 1988; except that with respect to 1988, any reference in section 1833(c) of the Social Security Act, as amended by subsection (a), to "$1375.00" is deemed a reference to "$562.50". The amendment made by subsection (a)(2) shall apply to services furnished on or after January 1, 1989.

(2)(A) The amendments made by subsection (b) shall become effective on the date of enactment of this Act.

(B) The Secretary of Health and Human Services shall implement the amendments made by subsection (b) so as to ensure that there is no additional cost to the medicare program by reason of such amendments.

SEC. 4071. COVERAGE OF INFLUENZA VACCINE AND ITS ADMINISTRATION.

(a) IN GENERAL.—Section 1861(s)(10)(A) of the Social Security Act (42 U.S.C. 1395x(a)(10)(A)) is amended by inserting before the semicolon the following: "and influenza vaccine and its administration".

(b) CONTINGENT EFFECTIVE DATE; DEMONSTRATION PROJECT.—

(1) The provisions of subsection (e) of section 4072 of this subpart shall apply to this section in the same manner as it applies to section 4072.

(2) In conducting the demonstration project pursuant to paragraph (1), in order to determine the cost effectiveness of including influenza vaccine in the medicare program, the Secretary of Health and Human Services is required to conduct a demonstration of the provision of influenza vaccine as a service for medicare beneficiaries and to expend $25,000,000 each year of the demonstration project for this purpose. In conducting this demonstration, the Secretary is authorized to purchase in bulk influenza vaccine and to distribute it in a manner to make it widely available to medicare beneficiaries, to develop projects to provide vaccine in the same manner as other covered medicare services in large scale demonstration projects, including statewide projects, and to engage in other appropriate use of moneys to provide influenza vaccine to medicare beneficiaries and evaluate the cost effectiveness of its use. In determining cost effectiveness, the Secretary shall consider the direct cost of the vaccine, the utilization of vaccine which might otherwise not have occurred, the costs of illnesses and nursing home days avoided, and other relevant factors, except that extended life for beneficiaries shall not be considered to reduce the cost effectiveness of the vaccine.

SEC. 4072. PAYMENT FOR THERAPEUTIC SHOES FOR INDIVIDUALS WITH SEVERE DIABETIC FOOT DISEASE.

(a) COVERAGE UNDER PART B.—Section 1861(s) of the Social Security Act (42 U.S.C. 1395x(s)) is amended—

(1) by redesignating paragraphs (12) through (15) as paragraphs (13) through (16), respectively,

(2) by striking out "and" at the end of paragraph (10),

(3) by striking out the period at the end of paragraph (11) and inserting "; and", and

(4) by inserting after paragraph (11) the following new paragraph:

"(12) extra-depth shoes with inserts or custom molded shoes for an individual with diabetes, if—

"(A) the physician who is managing the individual's diabetic condition (i) documents that the individual has peripheral neuropathy with evidence of callus formation, a history of pre-ulcerative calluses, a history of previous ulceration, foot deformity, or previous amputation, or poor circulation, and (ii) certifies that the individual needs such shoes under a comprehensive plan of care related to the individual's diabetic condition;

"(B) the particular type of shoes are prescribed by a podiatrist or other qualified physician (as established by the Secretary); and

"(C) the shoes are fitted and furnished by a podiatrist or other qualified individual (such as a pedorthist or orthotist, as established by the Secretary) who is not the physician described in subparagraph (A) (unless the Secretary finds that the physician is the only such qualified individual in the area).".

(b) LIMITATION ON BENEFIT.—Section 1833 of such Act (42 U.S.C. 1395) is amended by inserting after subsection (e) the following new subsection:

"(f)(1) In the case of shoes described in section 1861(s)(12)—

"(A) no payment may be made under this part for the furnishing of more than one pair of shoes for any individual for any calendar year, and

"(B) with respect to expenses incurred in any calendar year, no more than the limit established under paragraph (2) shall be considered as incurred expenses for purposes of subsections (a) and (b).

Payment for shoes under this part shall be considered to include payment for any expenses for the fitting of such shoes.

"(2)(A) Except as provided by the Secretary under subparagraphs (B) and (C), the limit established under this paragraph—

"(i) for the furnishing of one pair of custom molded shoes is $300;

"(ii) for the furnishing of extra-depth shoes and inserts is—

"(I) $100 for the pair of shoes itself, and

"(II) $50 for inserts for a pair of shoes.

"(B) The Secretary or a carrier may establish limits for shoes that are lower than the limits established under subparagraph (A) if the Secretary finds that shoes and inserts of an appropriate quality are readily available at or below such lower limits.

"(C) For each year after 1988, each dollar amount under subparagraph (A) or (B) (as previously adjusted under this subparagraph) shall be increased by the same percentage increase as the Secretary provides with respect to durable medical equipment for that year, except that if such increase is not a multiple of $1, it shall be rounded to the nearest multiple of $1.

"(3) In this title, the term 'shoes' includes, except for purposes of subparagraphs (A)(ii) and (B) of paragraph (2), inserts for extra-depth shoes.".

(c) MODIFICATION OF EXCLUSION.—Section 1862(a)(8) of such Act (42 U.S.C. 1395y(a)(8)) is amended by inserting ", other than shoes furnished pursuant to section 1861(s)(12)" before the semicolon.

(d) CONFORMING AMENDMENTS.—Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), 1396n(a)(1)(B)(ii)(I)) are each amended by

striking out "paragraphs (12) and (13)" and inserting "paragraphs (13) and (14)".

(e) CONTINGENT EFFECTIVE DATE; DEMONSTRATION PROJECT.—

(1) The amendments made by this section shall become effective (if at all) in accordance with paragraph (2).

(2)(A) The Secretary of Health and Human Services (in this paragraph referred to as the "Secretary"), shall establish a demonstration project to begin on October 1, 1988, to test the cost-effectiveness of furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section to a sample group of medicare beneficiaries.

(B)(i) The demonstration project under subparagraph (A) shall be conducted for an initial period of 24 months. Not later than October 1, 1990, the Secretary shall report to the Congress on the results of such project. If the Secretary finds, on the basis of existing data, that furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section is cost-effective, the Secretary shall include such finding in such report, such project shall be discontinued, and the amendments made by this section shall become effective on November 1, 1990.

(ii) If the Secretary determines that such finding cannot be made on the basis of existing data, such project shall continue for an additional 24 months. Not later than April 1, 1993, the Secretary shall submit a final report to the Congress on the results of such project. The amendments made by this section shall become effective on the first day of the first month to begin after such report is submitted to the Congress unless the report contains a finding by the Secretary that furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section is not cost-effective (in which case the amendments made by this section shall not become effective).

SEC. 4073. COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES.

(a) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J);

(2) by adding "and" at the end of subparagraph (K); and

(3) by adding at the end thereof the following new subparagraph:

"(L) certified nurse-midwife services;".

(b) PAYMENT OF BENEFITS.—

(1) Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (ii);

(B) by striking the semicolon at the end of clause (iii) and inserting a comma; and

(C) by adding at the end thereof the following new clause:

"(iv) certified nurse-midwife services; and".

(2) Section 1833(a)(1) of such Act (42 U.S.C. 1395k(a)(1)) is amended—

(A) by striking "and" at the end of clause (F);

(B) by striking "services; and" in clause (G) and inserting "services,"; and

(C) [37] by adding at the end thereof the following: "and (I) with respect to certified nurse-midwife services under section 1861(s)(2)(L), the amounts paid shall be the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph (but in no event more than 65 percent of the prevailing charge that would be allowed for the same service performed by a physician);".

(3) Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(m) In the case of certified nurse-midwife services for which payment may be made under this part only pursuant to section 1861(s)(2)(L), payment may only be made under this part for such services on an assignment-related basis.".

(c) DEFINITION.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"Certified Nurse-Midwife Services

"(ff)(1) The term 'certified nurse-midwife services' means such services furnished by a certified nurse-midwife (as defined in paragraph (2)) and such services and supplies furnished as an incident to his service which the certified nurse-midwife is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician or as an incident to a physician's service.

"(2) The term 'certified nurse-midwife' means a registered nurse who has successfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary, or has been certified by an organization recognized by the Secretary, and performs services in the area of management of the care of mothers and babies throughout the maternity cycle.".

(d) [38] CONFORMING CHANGES.—

(1) Section 1905(a)(17) of such Act (42 U.S.C. 1396d(a)(17)) is amended by striking "as defined in subsection (m)" and inserting "as defined in section 1861(ff)".

(2) Section 1905 of such Act (42 U.S.C. 1396d) is amended by striking subsection (m).

(e) [39] EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to services performed on or after July 1, 1988.

SEC. 4074. COVERAGE OF SOCIAL WORKER SERVICES FURNISHED BY A HEALTH MAINTENANCE ORGANIZATION TO ITS MEMBERS.

(a) IN GENERAL.—Section 1861(s)(2)(H)(ii) of the Social Security Act (42 U.S.C. 1395x(s)(2)(H)(ii)) is amended—

(1) by inserting "or by a clinical social worker (as defined in subsection (ff))" after "clinical psychologist (as defined by the Secretary)"; and

(2) by striking "incident to his services" and inserting "incident to such clinical psychologist's services or clinical social worker's services".

(b) CLINICAL SOCIAL WORKER DEFINED.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Clinical Social Worker

"(ff) The term 'clinical social worker' means an individual who—

"(1) possesses a master's or doctor's degree in social work;

"(2) after obtaining such degree has performed at least 2 years of supervised clinical social work; and

"(3)(A) is licensed or certified as a clinical social worker by the State in which the services are performed, or

"(B) in the case of an individual in a State which does not provide for licensure or certification—

"(i) has completed at least 2 years or 3,000 hours of post-master's degree supervised clinical social work practice under the supervision of a master's level social worker in an appropriate setting (as determined by the Secretary), and

"(ii) meets such other criteria as the Secretary establishes.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to services performed on or after January 1, 1988.

SEC. 4075. CLARIFICATION OF COVERAGE OF DRUGS USED IN IMMUNOSUPPRESSIVE THERAPY.

(a) IN GENERAL.—Section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)) is amended by striking "immunosuppressive drugs" and inserting "prescription drugs used in immunosuppressive therapy".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs dispensed on or after the date of the enactment of this Act.

SEC. 4076. SERVICES OF A PHYSICIAN ASSISTANT.

(a) SERVICES COVERED.—Section 1861(s)(2)(K) of the Social Security Act (42 U.S.C. 1395x(s)(2)(K)) is amended by inserting ", in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area," after "1905(c))".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 1989.

SEC. 4077. PSYCHOLOGIST SERVICES IN CLINICS.

(a) COVERAGE OF PSYCHOLOGISTS' SERVICES FURNISHED AT RURAL HEALTH CLINICS.—

(1) Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking "physician assistant or by a nurse practitioner" and inserting "physician assistant or a nurse practitioner (as defined in paragraph (3)), or by a clinical psychologist (as defined by the Secretary),".

(2) The amendment made by paragraph (1) shall be effective with respect to services furnished on or after the date of enactment of this Act.

(b) DIRECT PAYMENT FOR PSYCHOLOGISTS' SERVICES FURNISHED AT A COMMUNITY MENTAL HEALTH CENTER.—

(1) Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended, is amended—

(A) by striking "and" at the end of subparagraph (K);

(B) by adding "and" at the end of subparagraph (L); and

(C) by adding at the end thereof the following new subparagraph:

"(M) qualified psychologist services;".

(2) Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (ii);

(B) by striking the semicolon in clause (iii) and inserting a comma; and

(C) by adding at the end thereof the following new clause:

"(iv) qualified psychologist services; and".

[37] Copy read "(D)".

[38] Copy read "(c)".

[39] Copy read "(d)".

(3) Section 1833(a)(1) of such Act (42 U.S.C. 1395k(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (G);

(B) by striking "services; and" in subparagraph (H) and inserting "services,";

(C) by adding "and" at the end of subparagraph (I); and

(D) by adding at the end thereof the following new subparagraph: "(J) with respect to qualified psychologist services under section 1861(s)(2)(M), the amounts paid shall be the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph;".

(4) The subsection added by section 4073(b)(3) of this subpart is amended by inserting "and in the case of qualified psychologists services for which payment may be made under this part only pursuant to section 1861(s)(2)(M)" after "1861(s)(2)(L)".

(5) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"Qualified Psychologist Services

"(gg) The term 'qualified psychologist services' means such services and such services and supplies furnished as an incident to his service furnished by a clinical psychologist (as defined by the Secretary) at a community mental health center (as such term is used in the Public Health Service Act) which the psychologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician or as an incident to a physician's service.".[40]

(6)[41] The amendments made by this subsection shall be effective with respect to services performed on or after July 1, 1988.

SEC. 4078. PROVISION OF OFFSITE COMPREHENSIVE OUTPATIENT REHABILITATION SERVICES.

Section 1861(cc)(1) of the Social Security Act (42 U.S.C. 1395x(cc)(1)) is amended by adding at the end thereof the following: "In the case of physical therapy, occupational therapy, and speech pathology services, there shall be no requirement that the item or service be furnished at any single fixed location if the item or service is furnished pursuant to such plan and payments are not otherwise made for the item or service under this title.".

SEC. 4079. DEMONSTRATION PROJECTS TO PROVIDE PAYMENT ON A PREPAID, CAPITATED BASIS FOR COMMUNITY NURSING AND AMBULATORY CARE FURNISHED TO MEDICARE BENEFICIARIES.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into an agreement with not less than four eligible organizations submitting applications under this section to conduct demonstration projects to provide payment on a prepaid, capitated basis for community nursing and ambulatory care furnished to any individual entitled to benefits under part A and enrolled under part B of title XVIII of the Social Security Act (other than an individual medically determined to have end-stage renal disease) who resides in the geographic area served by the organization and enrolls with such organization (in accordance with subsection (c)(2)).

(b) DEFINITIONS OF COMMUNITY NURSING AND AMBULATORY CARE AND ELIGIBLE ORGANIZATION.—As used in this section:

(1) The term "community nursing and ambulatory care" means the following services:

(A) Part-time or intermittent nursing care furnished by or under the supervision of registered professional nurses.

(B) Physical, occupational, or speech therapy.

(C) Social and related services supportive of a plan of ambulatory care.

(D) Part-time or intermittent services of a home health aide.

(E) Medical supplies (other than drugs and biologicals) and durable medical equipment while under a plan of care.

(F) Medical and other health services described in paragraphs (2)(H)(ii) and (5) through (9) of section 1861(s) of the Social Security Act.

(G) Rural health clinic services described in section 1861(aa)(1)(C) of such Act.

(H) Certain other related services listed in section 1915(c)(4)(B) of such Act to the extent the Secretary finds such services are appropriate to prevent the need for institutionalization of a patient.

(2) The term "eligible organization" means a public or private entity, organized under the laws of any State, which meets the following requirements:

(A) The entity (or a division or part of such entity) is primarily engaged in the direct provision of community nursing and ambulatory care.

(B) The entity provides directly, or through arrangements with other qualified personnel, the services described in paragraph (1).

(C) The entity provides that all nursing care (including services of home health aids) is furnished by or under the supervision of a registered nurse.

(D) The entity provides that all services are furnished by qualified staff and are coordinated by a registered professional nurse.

(E) The entity has policies governing the furnishing of community nursing and ambulatory care that are developed by registered professional nurses in cooperation with (as appropriate) other professionals.

(F) The entity maintains clinical records on all patients.

(G) The entity has protocols and procedures to assure, when appropriate, timely referral to or consultation with other health care providers or professionals.

(H) The entity complies with applicable State and local laws governing the provision of community nursing and ambulatory care to patients.

(I) The requirements of subparagraphs (B), (D), and (E) of section 1876(b)(2) of the Social Security Act.

(c) AGREEMENTS WITH ELIGIBLE ORGANIZATIONS TO[42] CONDUCT DEMONSTRATION PROJECTS.—

(1) The Secretary may not enter into an agreement with an eligible organization to conduct a demonstration project under this section unless the organization meets the requirements of this subsection and subsection (d) with respect to members enrolled with the organization under this section.

(2) The organization shall have an open enrollment period for the enrollment of individuals under this section. The duration of such period of enrollment and any other requirement pertaining to enrollment or termination of enrollment shall be specified in the agreement with the organization.

(3) The organization must provide to members enrolled with the organization under this section, through providers and other persons that meet the applicable requirements of titles XVIII and XIX of the Social Security Act, community nursing and ambulatory care (as defined in subsection (b)(1)) which is generally available to individuals residing in the geographic area served by the organization, except that the organization may provide such members with such additional health care services as the members may elect, at their option, to have covered.

(4) The organization must make community nursing and ambulatory care (and such other health care services as such individuals have contracted for) available and accessible to each individual enrolled with the organization under this section, within the area served by the organization, with reasonable promptness and in a manner which assures continuity.

(5) Section 1876(c)(5) of the Social Security Act shall apply to organizations under this section in the same manner as it applies to organizations under section 1876 of such Act.

(6) The organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals under the demonstration project conducted under this section, which program (A) stresses health outcomes and (B) provides review by health care professionals of the process followed in the provision of such health care services.

(7) Under a demonstration project under this section—

(A) the Secretary could require the organization to provide financial or other assurances (including financial risk-sharing) that minimize the inappropriate substitution of other services under title XVIII of such Act for community nursing services; and

(B) if the Secretary determines that the organization has failed to perform in accordance with the requirements of the project (including meeting financial responsibility requirements under the project, any pattern of disproportionate or inappropriate institutionalization) the Secretary shall, after notice, terminate the project.

(d) DETERMINATION OF PER CAPITA PAYMENT RATES.—

(1) The Secretary shall determine for each 12-month period in which a demonstration project is conducted under this section, and shall announce (in a manner intended to provide notice to interested parties) not later than three months before the beginning of such period, with respect to each eligible organization conducting a demonstration project under this section, a per capita rate of payment for each class of individuals who are enrolled with such organization who are entitled to benefits under part A and enrolled under part B of title XVIII of the Social Security Act.

(2)(A) Except as provided in paragraph (3), the per capita rate of payment under paragraph (1) shall be determined in accordance with this paragraph.

(B) The Secretary shall define appropriate classes of members, based on age, disability status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

(C) The per capita rate of payment under paragraph (1) for each such class shall be equal to 95 percent of the adjusted average

[40] Copy read "service.".

[41] Copy read "(5)".

[42] Copy read "WITH ELIGIBLE ORGANIZATIONS TO".

per capita cost (as defined in subparagraph (D)) for that class.

(D) For purposes of subparagraph (C), the term 'adjusted average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by an eligible organization or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for those services covered under parts A and B of title XVIII of the Social Security Act and types of expenses otherwise reimbursable under such parts A and B which are described in subparagraphs (A) through (G) of subsection (b)(1) (including administrative costs incurred by organizations described in sections 1816 and 1842 of such Act), if the services were to be furnished by other than an eligible organization.

(3) The Secretary shall, in consultation with providers, health policy experts, and consumer groups develop capitation-based reimbursement rates for such classes of individuals entitled to benefits under part A and enrolled under part B of the Social Security Act as the Secretary shall determine. Such rates shall be applied in determining per capita rates of payment under paragraph (1) with respect to at least one eligible organization conducting a demonstration project under this section.

(4)(A) In the case of an eligible organization conducting a demonstration project under this section, the Secretary shall make monthly payments in advance and in accordance with the rate determined under paragraph (2) or (3), except as provided in subsection (e)(3)(B), to the organization for each individual enrolled with the organization.

(B) The amount of payment under paragraph (2) or (3) may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

(5) The payment to an eligible organization under this section for individuals enrolled under this section with the organization and entitled to benefits under part A and enrolled under part B of the Social Security Act shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under such Act in such proportions from each such trust fund as the Secretary deems to be fair and equitable taking into consideration benefits attributable to such parts A and B, respectively.

(6) During any period in which an individual is enrolled with an eligible organization conducting a demonstration project under this section, only the eligible organization (and no other individual or person) shall be entitled to receive payments from the Secretary under this title for community nursing and ambulatory care (as defined in subsection (b)(1)) furnished to the individual.

(e) RESTRICTION ON PREMIUMS, DEDUCTIBLES, COPAYMENTS, AND COINSURANCE.—

(1) In no case may the portion of an eligible organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to community nursing and ambulatory care) to individuals who are enrolled under this section with the organization, exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this section with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this section with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B of the Social Security Act, if they were not members of an eligible organization.

(2) If the eligible organization provides to its members enrolled under this section services in addition to community nursing and ambulatory care, election of coverage for such additional services shall be optional for such members and such organization shall furnish such members with information on the portion of its premium rate or other charges applicable to such additional services. In no case may the sum of—

(A) the portion of such organization's premium rate charged, with respect to such additional services, to members enrolled under this section, and

(B) the actuarial value of its deductibles, coinsurance, and copayments charged, with respect to such services to such members

exceed the adjusted community rate for such service (as defined in section 1876(e)(3) of the Social Security Act).

(3)(A) Subject to subparagraphs (B) and (C), each agreement to conduct a demonstration project under this section shall provide that if—

(i) the adjusted community rate, referred to in paragraph (2), for community nursing and ambulatory care covered under parts A and B of title XVIII of the Social Security Act (as reduced for the actuarial value of the coinsurance and deductibles under those parts) for members enrolled under this section with the organization,

is less than

(ii) the average of the per capita rates of payment to be made under subsection (d)(1) at the beginning of the 12-month period (as determined on such basis as the Secretary determines appropriate) described in such subsection for members enrolled under this section with the organization,

the eligible organization shall provide to such members the additional benefits described in section 1876(g)(3) of the Social Security Act which are selected by the eligible organization and which the Secretary finds are at least equal in value to the difference between that average per capita payment and the adjusted community rate (as so reduced).

(B) Subparagraph (A) shall not apply with respect to any organization which elects to receive a lesser payment to the extent that there is no longer a difference between the average per capita payment and adjusted community rate (as so reduced).

(C) An organization conducting a demonstration project under this section may provide (with the approval of the Secretary) that a part of the value of such additional benefits under subparagraph (A) be withheld and reserved by the Secretary as provided in section 1876(g)(5) of the Social Security Act.

(4) The provisions of paragraphs (3), (5), and (6) of section 1876(g) of the Social Security Act shall apply in the same manner to agreements under this section as they apply to risk-sharing contracts under section 1876 of such Act, and, for this purpose, any reference in such paragraphs to paragraph (2) is deemed a reference to paragraph (3) of this subsection.

(5) Section 1876(e)(4) of the Social Security Act shall apply to eligible organizations under this section in the same manner as it applies to eligible organizations under section 1876 of such Act.

(f) COMMENCEMENT AND DURATION OF PROJECTS.—Each demonstration project under this section shall begin not later than July 1, 1989, and shall be conducted for a period of three years.

(g) REPORT.—Not later than January 1, 1992, the Secretary shall submit to the Congress a report on the results of the demonstration projects conducted under this section.

SEC. 4080. PART B PREMIUM.

Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(1) in subsection (e), by striking "1989" each place it appears and inserting in lieu thereof "1990";

(2) in subsection (f)(1), by striking "or 1987" and inserting in lieu thereof "1987, or 1988"; and

(3) in subsection (f)(2), by striking "or 1988" and inserting in lieu thereof "1988, or 1989".

Subpart D—Other Provisions

SEC. 4081. SUBMISSION OF CLAIMS TO SUPPLEMENTAL INSURANCE CARRIERS.

(a) IN GENERAL.—Section 1842(h)(3) of the Social Security Act (42 U.S.C. 1395u(h)(3)) is amended by inserting "(A)" after "(3)" and by adding at the end the following new subparagraph:

"(B) The Secretary shall establish a procedure whereby an individual enrolled under this part may assign, in an appropriate manner on the form claiming a benefit under this part for an item or service furnished by a participating physician or supplier, the individual's rights of payment under a medicare supplemental policy (described in section 1882(g)(1)) in which the individual is enrolled. In the case such an assignment is properly executed and a claims determination is made by a carrier with a contract under this section, the carrier shall transmit to the private entity issuing the medicare supplemental policy notice of such fact and including such information as the Secretary determines is generally provided to enable the entity to decide whether (and the amount of) any payment is due under the policy. The Secretary may enter into arrangements for the transmittal of such information to entities electronically. The Secretary shall impose user fees for the transmittal of information under this subparagraph, whether electronically or otherwise.".

(b) MEDIGAP POLICY STANDARDS.—Section 1882 of such Act (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1)—

(A) by amending subparagraph (B) to read as follows:

"(B) includes requirements equal to or more stringent than the requirements described in paragraphs (2) and (3) of subsection (c);",

[43] (B) by adding "and" at the end of subparagraph (C), and

[43] (C) by inserting after subparagraph (C) the following new subparagraph:

[43] Paragraphs (B) and (C) were indented wrong.

"(D) provides the Secretary periodically (but at least annually) with a list containing the name and address of the issuer of each such policy and the name and number of each such policy (including an indication of policies that have been previously approved, newly approved, or withdrawn from approval since the previous list was provided),";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting "; and", and

(C) by inserting after paragraph (2) the following new paragraph:

"(3)(A) accepts a notice under section 1842(h)(3)(B) as a claims form for benefits under such policy in lieu of any claims form otherwise required and agrees to make a payment determination on the basis of the information contained in such claims form;

"(B) where such a notice is received—

"(i) provides notice to such physician or supplier and the beneficiary of the payment determination, and

"(ii) provides any appropriate payment directly to the participating physician or supplier involved;

"(C) provides each enrollee at the time of enrollment a card listing the policy name and number and a single mailing address to which notices under section 1842(h)(3)(B) respecting the policy are to be sent;

"(D) agrees to pay any user fees established under section 1842(h)(3)(B) with respect to information transmitted to the issuer of the policy; and

"(E) provides to the Secretary at least annually, for transmittal to carriers, a single mailing address to which notices under section 1842(h)(3)(B) respecting the policy are to be sent.".

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply to contracts with carriers for claims for items and services furnished by participating physicians and suppliers on or after January 1, 1989.

(2)(A) The amendments made by subsection (b) shall apply to medicare supplemental policies as of January 1, 1989 (or, if applicable, the date established under subparagraph (B)).

(B) In the case of a State which the Secretary of Health and Human Services identifies as—

(i) requiring State legislation (other than legislation appropriating funds) in order for medical supplemental policies to be changed to meet the requirements of section 1882(c)(3) of the Social Security Act, and

(ii) having a legislature which is not scheduled to meet in 1988 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1989, and in which legislation described in clause (i) may be considered.

SEC. 4082. REVISION OF PART B HEARINGS.

(a) CLARIFICATION OF OBRA AMENDMENT.—Section 1869(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ff(b)(3)(B)) is amended by striking "chapter 5" and inserting "section 553".

(b) EXPEDITED ADMINISTRATIVE HEARING WHERE ONLY ISSUES OF LAW.—Section 1869(b) of such Act (42 U.S.C. 1395ff(b)) is amended by adding at the end the following new paragraph:

"(5) In an administrative hearing pursuant to paragraph (1), where the moving party alleges that there are no material issues of fact in dispute, the administrative law judge shall make an expedited determination as to whether any such facts are in dispute and, if not, shall determine the case expeditiously.".

(c) TIMELY CARRIER HEARINGS ON PART B APPEALS.—Section 1842(b)(5) of such Act (42 U.S.C. 1395u(b)(5)) is amended—

(1) by inserting "(A)" after "(5)", and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall establish standards for evaluating carriers' performance of reviews of initial carrier determinations and of fair hearings under paragraph (3)(C), under which a carrier is expected—

"(i) to complete such reviews, within 45 days after the date of a request by an individual enrolled under this part for such a review, in 95 percent of such requests, and

"(ii) to make a final determination, within 120 days after the date of receipt of a request by an individual enrolled under this part for a fair hearing under paragraph (3)(C), in 90 percent of such cases.".

(d) GAO STUDY.—The Comptroller General shall conduct a study concerning the cost effectiveness of requiring hearings with a carrier under part B of title XVIII of the Social Security Act before having a hearing before an administrative law judge respecting carrier determinations under that part. The Comptroller General shall report to the Congress on the results of such study by not later than June 30, 1989.

(e) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to requests for hearings filed after the end of the 60-day period beginning on the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall apply to evaluation of performance of carriers under contracts entered into or renewed on or after October 1, 1988.

SEC. 4083. PROVISIONS RELATING TO PHYSICIAN PAYMENT REVIEW COMMISSION.

(a) REVISION OF APPOINTMENT PROCESS FOR THE PHYSICIAN PAYMENT REVIEW COMMISSION.—

(1) IN GENERAL.—Section 1845(a) of the Social Security Act (42 U.S.C. 1395w-1(a)(3)) is amended—

(A) in paragraph (1), by striking "with expertise in the provision and financing of physicians' services" and inserting "with national recognition for their expertise in health economics, physician reimbursement, medical practice, and other related fields"; and

(B) in paragraph (3), by striking the last sentence.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to appointments made after the date of the enactment of this Act.

(b) TREATMENT OF EMPLOYEES FOR CERTAIN PURPOSES.—

(1) IN [44] GENERAL.—Section 1886(e)(6)(D) of the Social Security Act (42 U.S.C. 1395ww(e)(6)(D)) is amended by adding at the end the following: "For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.".

[44] Copy read "General.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) CHANGE IN DATE FOR ANNUAL REPORT OF PHYSICIAN PAYMENT REVIEW COMMISSION.—

(1) Section 1845(b)(1) of such Act (42 U.S.C. 1395w-1(b)(1)) is amended by striking "March 1" and inserting "March 31".

(2) The amendment made by paragraph (1) shall apply with respect to reports for years after 1987.

SEC. 4084. TECHNICAL AMENDMENTS RELATED TO CERTIFIED REGISTERED NURSE ANESTHETISTS.

(a) IN GENERAL.—Section 1833(l) of the Social Security Act (42 U.S.C. 1395l(l)), as added by section 9320(e) of the Omnibus Budget Reconciliation Act of 1986, is amended—

(1) in paragraph (2), by striking "1985" and inserting "1985 and such other data as the Secretary determines necessary"; and

(2) in paragraph (5)(A), by striking "or group practice" each place it appears and inserting "group practice, or ambulatory surgical center".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as if included in the amendment made by section 9320(e)(2) of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4085. MISCELLANEOUS AND TECHNICAL PROVISIONS.

(a) PROMPT SUBMITTAL OF DATA BY SECRETARY.—Section 1845 of the Social Security Act (42 U.S.C. 1395w-1) is amended by adding at the end the following new subsection:

"(f)(1) Not later than October 1st of each year (beginning with 1988), the Secretary shall transmit to the Physician Payment Review Commission, to the Congressional Budget Office, and to the Congressional Research Service of the Library of Congress national data (known as the Part B Medicare Annual Data System) for the previous year respecting part B of this title.

"(2) In order to ensure that the data are available for transmittal under paragraph (1) on a timely basis, the Secretary shall require, in the standards and criteria established under section 1842(b)(2), that carriers submit data for a year under the system referred to in paragraph (1) not later than July 1st of the following year.

"(3) The Secretary, in consultation with the Physician Payment Review Commission, the Congressional Budget Office, and the Congressional Research Service of the Library of Congress, shall establish and annually revise standards for the data reporting system described in paragraph (1).

"(4) The Secretary shall also provide to the entities described in paragraph (1) additional data respecting the program under this part as may be reasonably requested by them on an agreed-upon schedule.

"(5) The Secretary shall develop, in consultation with the Physician Payment Review Commission, the Congressional Budget Office, and the Congressional Research Service of the Library of Congress, a system for providing to each of such entities on a quarterly basis summary data on aggregate expenditures under this part by type of service and by type of provider. Such data shall be provided not later than 90 days after the end of each quarter (for quarters beginning with the calendar quarter ending on March 31, 1989).".

(b) CLARIFICATION OF PENALTIES FOR UNASSIGNED LABORATORY SERVICES.—

(1) IN GENERAL.—Section 1833(h)(5) of the Social Security Act (42 U.S.C. 1395l(h)(5)) is amended by adding at the end the following new subparagraph:

"(D) If a person knowingly and willfully and on a repeated basis bills an individual enrolled under this part for charges for a clinical diagnostic laboratory test for which payment may only be made on an assignment-related basis under subparagraph (C), the Secretary may apply sanctions against the person in the same manner as the Secretary may apply sanctions against a physician in accordance with section 1842(j)(2).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to procedures performed on or after January 1, 1988.

(c) EXTENSION OF MORATORIUM ON LABORATORY PAYMENT DEMONSTRATION.—Section 9204(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 9339(e) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "January 1, 1988" and inserting "January 1, 1989".

(d) PROMPT PAYMENT FOR COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES.—

(1) Section 1816(c)(2)(C) of the Social Security Act (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "or hospice program" and inserting "hospice program, comprehensive outpatient rehabilitation facility, or rehabilitation agency".

(2)(A) The amendment made by paragraph (1) shall apply to claims received on or after the date of enactment of this Act.

(B) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816, and regulations, to such extent as may be necessary to implement the amendment made by paragraph (1).

(e) CAPACITY TO [45] SET GEOGRAPHIC PAYMENT LIMITS.—The Secretary of Health and Human Services shall develop the capability to implement (for services furnished on or after January 1, 1989) geographic limits on charges and payments under part B of title XVIII of the Social Security Act for physicians' services based on statewide, regional, or national average (or percentile in a distribution) of prevailing charges or payment amounts (weighted by frequency of services). Any such limits shall take into account adjustments for geographic differences in cost of practice and cost of living.

(f) DELAY IN EFFECTIVE DATE FOR ESTABLISHING PHYSICIAN IDENTIFIER SYSTEM.—Section 9202(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "July 1, 1987" and inserting "October 1, 1988".

(g) DATE FOR APPLYING CIVIL PENALITIES FOR IMPROPER USE OF ASSISTANTS IN PERFORMING CATARACT SURGERY.—

(1) Section 1842(k) of the Social Security Act (42 U.S.C. 1395u(k)) is amended in paragraphs (1) and (2) by striking "(j)(2)" each place it appears and inserting "(j)(2) in the case of surgery performed on or after March 1, 1987".

(2) The amendment made by paragraph (1) shall be effective as if included in section 9307(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(h) UTILIZATION SCREENS FOR PHYSICIAN SERVICES PROVIDED TO PATIENTS IN REHABILITATION HOSPITALS.—

(1) The Secretary of Health and Human Services shall establish (in consultation with appropriate physician groups, including those representing rehabilitative medicine) a separate utilization screen for physician visits to patients in rehabilitation hospitals and rehabilitative units (and patients in long-term care hospitals receiving rehabilitation services) to be used by carriers under section 1842 of the Social Security Act in performing functions under subsection (a) of such section related to the utilization practices of physicians in such hospitals and units.

(2) Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall take appropriate steps to implement the utilization screen established under paragraph (1).

(i) TECHNICAL AMENDMENTS.—

(1) Section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) is amended—

(A) in paragraphs (1)(D)(i) and (2)(D)(i), by striking, "on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1)," and inserting "on an assignment-related basis";

(B) in paragraph (1), by striking "and" before "(G)"; and

(C) in subsection (b)(3)(A), by striking "on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1)" and inserting "on an assignment-related basis".

(2) Section 1833(h)(1)(C) of such Act (42 U.S.C. 1395l(h)(1)(C)) is amended by inserting before the period the following: ", and ending on December 31, 1989. For such tests furnished on or after January 1, 1990, the fee schedule shall be established on a nationwide basis".

(3) Section 1833(h)(5)(A) of such Act (42 U.S.C. 1395l(h)(5)(A)) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) in the case of a clinical diagnostic laboratory test provided under an arrangement (as defined in section 1861(w)(1)) made by a hospital, payment shall be made to the hospital.".

(4) Section 1835(a)(2)(C) of such Act (42 U.S.C. 1395n(a)(2)(C)) is amended by striking the second comma at the end of clause (i).

(5) Section 1842(b)(3)(C) of such Act (42 U.S.C. 1395u(b)(3)(C)) is amended by striking "not more than" and inserting "less than".

(6) Section 1842(h)(5) of such Act (42 U.S.C. 1395u(h)(5)) is amended by striking "the" before "participation".

(7) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, section 1842(j)(1) of the Social Security Act (42 U.S.C. 1395u(j)(1)) is amended—

(A) in subparagraph (C)(i), by inserting "maximum allowable" after "If the physician's",

(B) in subparagraph (C)(v), by striking "1987" and inserting [46] "1986", and

(C) by adding at the end of subparagraph (C) the following new clause:

"(vii) In the case of a nonparticipating physician who was a participating physician during a previous period, for the purpose of computing the physician's maximum allowable actual charge during the physician's period of nonparticipation, the physician shall be deemed to have had a maximum allowable actual charge during the period of participation, and such deemed maximum allowable actual charge shall be determined accordingly to clauses (i) through (vi).".

(8) Paragraph (4) of section 1845(e) of the Social Security Act (42 U.S.C. 1395w-1(e)) is amended by moving the alignment of each of its provisions (including any clauses therein) 2 ems to the left.

(9) Section 1861(b)(4) of such Act (42 U.S.C. 1395x(b)(4)) is amended by striking the comma before "anesthesia" and inserting "and" and by striking "certified" the second place it appears.

(10) The heading of subsection (g) of section 1861 of such Act (42 U.S.C. 1395x) is amended to read as follows:

"Outpatient Occupational Therapy Services".

(11) Section 1861(s) of such Act (42 U.S.C. 1395x(s)), as amended by section 9367(a) of this Act, is amended by striking "which—" before paragraph (15) and all that follows through the end of paragraph (16) and inserting the following: "which would not be included under subsection (b) if it were furnished to an inpatient of a hospital.".

(12) Section 1861(v)(5)(A) of such Act (42 U.S.C. 1395x(v)(5)(A)) is amended by striking "section 1861(p)" and "section 1861(g)" and inserting "subsection (p)" and "subsection (g)", respectively.

(13) The heading of subsection (bb) of section 1861 of such Act (42 U.S.C. 1395x) is amended to read as follows:

"Services of a Certified Registered Nurse Anesthetist".

(14) The heading of subsection (ee) of section 1861 of such Act (42 U.S.C. 1395x) is amended to read as follows:

"Discharge Planning Process".

(15) Section 1862(a)(1)(A) of such Act (42 U.S.C. 1395y(a)(1)(A)) is amended by striking "or (D)" and inserting "(D), or (E)".

(16) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "an patient" and inserting "a patient".

(17) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, section 1866(g) of the Social Security Act (42 U.S.C. 1395cc(g)) is amended by striking "for a hospital outpatient service" and all that follows through "subsection (a)(1)(H)" and inserting "inconsistent with an arrangement under subsection (a)(1)(H) or in violation of the requirement for such an arrangement".

(18) Section 1869(a) of the Social Security Act (42 U.S.C. 1395ff(a)) is amended by inserting "or a claim for benefits with respect to home health services under part B" before "shall".

(19) Section 1869(b)(2) of such Act (42 U.S.C. 1395ff(b)(2)) is amended by inserting "and (1)(D)" after "paragraph (1)(C)" each place it appears.

(20) Section 1875(c)(3)(B) of such Act (42 U.S.C. 1395ll(c)(3)(B)) is amended by striking "years 1987" and inserting "year 1987".

(21) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986—

(A) section 9313(d)(3) of such Act is amended by striking "2 years after the date of the enactment of this Act" and inserting "January 1, 1990";

(B) section 9332(a)(3) of such Act is amended by inserting before the period at the end the following: "or in increasing the proportion of total payments for physicians' services which are payments for such services rendered by participating physicians";

(C) section 9335(j)(2) of such Act is amended by inserting before the period at

[45] Copy read "TO".

[46] Copy read "insert".

the end the following: "except that, until network administrative organizations are established under section 1881(c)(1)(A) of the Social Security Act (as amended by subsection (d)(1) of this section), the distribution of payments described in the last sentence of section 1881(b)(7) of such Act shall be made based on the distribution of payments under section 1881 of such Act to network administrative organizations for fiscal year 1986"; and

(D) section 9343 of such Act is amended—

(i) amending subparagraph (A) of subsection (e)(2) to read as follows:

"(2)(A) Section 1833 (42 U.S.C. 1395l) is amended—

"(i) in subsection (a)(1)(F), by striking '(i)(3)' and inserting '(i)(4)', and

"(ii) in subsection (b)(3), by striking 'or under subsection (i)(2) or (i)(4)'.";

(ii) in subsection (h)(2), by striking "(d)" and inserting "(c)" and by adding at the end the following: "The amendments made by subsection (c) shall apply to services furnished after June 30, 1987."; and

(iii) in subsection (h)(4), by striking "(c)" and inserting "(d)".

PART 4—PEER REVIEW ORGANIZATIONS

SEC. 4091. CONTRACT PROVISIONS.

(a) EXTENSIONS OF PEER REVIEW CONTRACT PERIOD.—

(1) ONE-TIME EXTENSIONS TO PERMIT STAGGERING OF EXPIRATION DATES.—

(A) IN GENERAL.—In order to permit the Secretary of Health and Human Services an adequate time to complete contract renewal negotiations with utilization and quality control peer review organizations under part B of title XI of the Social Security Act and to provide for a staggered period of contract expiration dates, notwithstanding section 1153(c) of such Act, the Secretary may provide for extensions of existing contracts, but the total of such extensions may not exceed 24 months for any contract.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to renewals occurring on or after the date of the enactment of this Act.

(2) 3-YEAR CONTRACT PERIOD.—

(A) Section 1153(c)(3) of such Act (42 U.S.C. 1320c-2(c)(3)) is amended by striking "two" and "biennial" and inserting "three" and "triennial", respectively.

(B) The amendment made by subparagraph (A) shall apply with respect to contracts entered into or renewed on or after the date of the enactment of this Act.

(b) CONTRACT REQUIREMENTS.—

(1) Section 1153 of the Social Security Act (42 U.S.C. 1320c-2) is amended by adding at the end the following new subsection:

"(h)(1) The Secretary shall publish in the Federal Register any new policy or procedure adopted by the Secretary that affects substantially the performance of contract obligations under this section not less than 30 days before the date on which such policy or procedure is to take effect. This paragraph shall not apply to the extent it is inconsistent with a statutory deadline.

"(2) The Secretary shall publish in the Federal Register the general criteria and standards used for evaluating the efficient and effective performance of contract obligations under this section and shall provide opportunity for public comment with respect to such criteria and standards.

"(3) The Secretary shall regularly furnish each peer review organization with a contract under this section with a report that documents the performance of the organization in relation to the performance of other such organizations.".

(2) Section 1153(e) of such Act (42 U.S.C. 1320c-2(e)) is amended—

(A) by inserting "(1)" after "(e)";

(B) by striking "Contracting" and inserting "Except as provided in paragraph (2), contracting"; and

(C) by adding at the end the following new paragraph:

"(2) If a peer review organization with a contract under this section is required to carry out a review function in addition to any function required to be carried out at the time the Secretary entered into or renewed the contract with the organization, the Secretary shall, before requiring such organization to carry out such additional function, negotiate the necessary contractual modifications, including modifications that provide for an appropriate adjustment (in light of the cost of such additional function) to the amount of reimbursement made to the organization.".

(3) The amendments made by paragraphs (1) and (2) shall become effective on the date of enactment of this Act.

SEC. 4092. PREFERENCE IN CONTRACTING WITH IN-STATE ORGANIZATIONS.

(a) IN GENERAL.—Section 1153 of the Social Security Act (42 U.S.C. 1320c-2), as amended by section 4091(b)(1) of this part, is further amended by adding at the end the following new subsection:

"(i)(1) Notwithstanding any other provision of this section, the Secretary shall not renew a contract with any organization that is not an in-State organization (as defined in paragraph (3)) unless the Secretary has first complied with the requirements of paragraph (2).

"(2)(A) Not later than six months before the date on which a contract period ends with respect to an organization that is not an in-State organization, the Secretary shall publish in the Federal Register—

"(i) the date on which such period ends; and

"(ii) the period of time in which an in-State organization may submit a proposal for the contract ending on such date.

"(B) If one or more qualified in-State organizations submits a proposal within the period of time specified under subparagraph (A)(ii), the Secretary shall not automatically renew the current contract on a noncompetitive basis, but shall provide for competition for the contract in the same manner as a new contract under subsection (b).

"(3) For purposes of this subsection, an in-State organization is an organization that has its primary place of business in the State in which review will be conducted (or, which is owned by a parent corporation the headquarters of which is located in such State).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to contracts scheduled to be renewed on or after the first day of the eighth month to begin after the date of enactment of this Act.

SEC. 4093. REQUIRING REASONABLE NOTICE AND OPPORTUNITY FOR DISCUSSION PRIOR TO DENIAL OF CLAIM.

(a) IN GENERAL.—Section 1154(a)(3) of the Social Security Act (42 U.S.C. 1320c-3(a)(3)) is amended to read as follows:

"(3)(A) Subject to subparagraph (B), whenever the organization makes a determination that any health care services or items furnished or to be furnished to a patient by any practitioner or provider are disapproved, the organization shall promptly notify such patient and the agency or organization responsible for the payment of claims under title XVIII of this Act of such determination.

"(B) The notification under subparagraph (A) shall not occur until 20 days after the date that the organization has—

"(i) made a preliminary notification to such practitioner or provider of such proposed determination, and

"(ii) provided such practitioner or provider an opportunity for discussion and review of the proposed determination.

The discussion and review conducted under subparagraph (B)(ii) shall not affect the rights of a practitioner or provider to a formal reconsideration of a determination under this part (as provided under section 1155).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to determinations made on or after April 1, 1988.

SEC. 4094. PEER REVIEW NORMS AND EDUCATION.

(a) STANDARDS APPLIED BY PROs.—Section 1154(a)(6) of the Social Security Act (42 U.S.C. 1320c-3(a)(6)) is amended by adding after and below subparagraph (B) thereof the following:

"As a component of the norms described in clause (i) or (ii), the organization shall take into account the special problems associated with delivering care in remote rural areas, the availability of service alternatives to inpatient hospitalization, and other appropriate factors (such as the distance from a patient's residence to the site of care, family support, availability of proximate alternative sites of care, and the patient's ability to carry out necessary or prescribed self-care regimens) that could adversely affect the safety or effectiveness of treatment provided on an outpatient basis.".

(b) ON-SITE REVIEW.—Section 1154(a) of such Act (42 U.S.C. 1320c-3(a)) is amended by adding at the end the following new paragraph:

"(15) During each year of the contract entered into under section 1153(b), the organization shall perform significant on-site review activities, including on-site review at least [47] 20 percent of the rural hospitals in the organization's area.".

(c) REPORTS TO PROVIDERS AND EDUCATIONAL ACTIVITIES.—

(1)(A) Section 1154(a)(6) of such Act [48] (42 U.S.C. 1320c-3(a)(6)) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(ii) by inserting "(A)" after "(6)", and

(iii) by adding at the end the following:

"(B) The organization shall—

"(i) offer to provide, several times each year, for a physician representing the organization to meet (at a hospital or at a regional meeting) with medical and administrative staff of each hospital (the services of which are reviewed by the organization) respecting the organization's review of the hospital's services for which payment may be made under title XVIII, and

"(ii) publish (not less often than annually) and distribute to providers and practitioners whose services are subject to review a report that describes the organization's findings with respect to the types of cases in which the organization has frequently determined that (I) inappropriate or unnecessary care has been provided, (II) services were rendered in an inappropriate setting, or (III)

[47] Copy read "review at at least".

[48] Copy read "1154(a)(6) such Act".

services did not meet professionally recognized standards of health care.".

(B) The amendments made by subparagraph (A) shall apply to contracts under part B of title XI of the Social Security Act entered into or renewed more than 6 months after the date of the enactment of this Act.

(2)(A) Section 1154(a)(4)(B) of the Social Security Act (42 U.S.C. 1320c-3(a)(4)(B)) is amended—

(i) by inserting before the period at the end of the first sentence the following: "and whether individuals enrolled with an eligible organization have adequate access to health care services provided by or through such organization (as determined, in part, by a survey of individuals enrolled with the organization who have not yet used the organization to receive such services). The contract of each organization shall also provide that with respect to health care provided by a health maintenance organization or competitive medical plan under section 1876, the organization shall maintain a beneficiary outreach program designed to apprise individuals receiving care under such section of the role of the peer review system, of the rights of the individual under such system, and of the method and purposes for contacting the organization"; and

(ii) by striking "previous sentence" and inserting "previous two sentences".

(B) Section 1154(a)(7)(A) of such Act (42 U.S.C. 1320c-3(a)(7)(A)) is amended—

(i) by inserting "(i)" after "(A)",

(ii) by striking the semicolon and inserting "; and", and

(iii) by adding at the end thereof the following new clause:

"(ii) in the case of psychiatric and physical rehabilitation services, make arrangements to ensure that (to the extent possible) initial review of such services be made by a physician who is trained in psychiatry or physical rehabilitation (as appropriate).".

(C) The amendments made by this paragraph shall apply with respect to contracts entered into or renewed on or after the date of enactment of this Act.

(d) PEER REVIEW EMPHASIS ON EDUCATIONAL ACTIVITIES.—

(1) Section 1153(c) of such Act (42 U.S.C. 1320c-2(c)) is amended by adding after and below paragraph (8) the following: "In evaluating the performance of utilization and quality control peer review organizations under contracts under this part, the Secretary shall place emphasis on the performance of such organizations in educating providers and practitioners (particularly those in rural areas) concerning the review process and criteria being applied by the organization.".

(2) The amendment made by paragraph (1) shall apply to contracts under part B of title XI of the Social Security Act as of January 1, 1988.

(e) TELECOMMUNICATIONS DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services shall enter into agreements with entities submitting applications under this subsection (in such form as the Secretary may provide) to establish demonstration projects to examine the feasability of requiring instruction and oversight of rural physicians, in lieu of imposing sanctions, through use of video communication between rural hospitals and teaching hospitals under this title. Under such demonstration projects, the Secretary may provide for payments to physicians consulted via video communication systems. No funds may be expended under the demonstration projects for the acquisition of capital items including computer hardware.

SEC. 4095. PREEXCLUSION HEARINGS.

(a) IN GENERAL.—Section 1156(b) of the Social Security Act (42 U.S.C. 1320c-5(b)) is amended by adding at the end the following new paragraph:

"(5) Before the Secretary may effect an exclusion under paragraph (2) in the case of a provider or practitioner located in a rural health manpower shortage area (HMSA) or in a county with a population of less than 70,000, the provider or practitioner adversely affected by the determination is entitled to a hearing before an administrative law judge (described in section 205(b)) respecting whether the provider or practitioner should be able to continue furnishing services to individuals entitled to benefits under this Act, pending completion of the administrative review procedure under paragraph (4). If the judge does not determine, by a preponderance of the evidence, that the provider or practitioner will pose a serious risk to such individuals if permitted to continue furnishing such services, the Secretary shall not effect the exclusion under paragraph (2) until the provider or practitioner has been provided reasonable notice and opportunity for an administrative hearing thereon under paragraph (4).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations made by the Secretary of Health and Human Services under section 1156(b) of the Social Security Act on or after the date of the enactment of this Act.

(c) TRANSITION FOR CURRENT CASES.—In the case of a practitioner or person—

(1) for whom a notice of determination under section 1156(b) of the Social Security Act has been provided within 365 days before the date of the enactment of this Act,

(2) who has not exhausted the administrative remedies available under section 1156(b)(4) of such Act for review of the determination, and

(3) who requests, within 90 days after the date of the enactment of this Act, a hearing established under this subsection,

the Secretary of Health and Human Services shall provide for a hearing described in section 1156(b)(5) of the Social Security Act (as amended by subsection (a) of this section).

(d) REDETERMINATIONS IN CERTAIN CASES.—If, in hearing under subsection (c), the judge does not determine, by a preponderance of the evidence, that the provider or practitioner will pose a serious risk to individuals entitled to benefits under title XVIII of the Social Security Act if permitted to continue or resume furnishing such services, the Secretary shall not effect the exclusion (or shall suspend the exclusion, if previously effected) under paragraph (2) of section 1156(b) of such Act until the provider or practitioner has been provided an administrative hearing thereon under paragraph (4) of such section, notwithstanding any failure by the provider or practitioner to request the hearing on a timely basis.

(e) REPORT ON IMPROVEMENTS IN PROCEDURES FOR IMPOSING SANCTIONS.—Not later than one year after the date of enactment of this Act, the Secretary of Health and Human Services shall report to Congress on the improved procedures for imposing sanctions against a practitioner or person under section 1156 of the Social Security Act established through agreement by the Health Care Financing Administration, the American Association of Retired Persons, the American Medical Association, and the Office of the Inspector General in the Department of Health and Human Services. The report shall set forth such improved procedures, describe the response of physicians and providers to the procedures, assess whether the procedures effect an appropriate balance between procedural fairness and the need for ensuring quality medical care, comment on the alternative provider-patient notification procedure contained in the agreement, and recommend whether such procedures should apply to institutional providers of health care services.

SEC. 4096. LIMITATION OF BENEFICIARY LIABILITY FOR SERVICES DISALLOWED BY PEER REVIEW ORGANIZATIONS.

(a) PART B SERVICES.—

(1) Section 1842 of the Social Security Act (42 U.S.C 1395u) is amended—

(A) in subsection (b)(3)(ii), by inserting "(and to refund amounts already collected)" after "agrees not to charge", and by striking "and (II)" and inserting ", (II) the physician or other person furnishing such service agrees not to charge (and to refund amounts already collected) for services for which payment under this title is denied under section 1154(a)(2) by reason of a determination under section 1154(a)(1)(B), and (III)";

(B) in subsection (l)(1)(A)(iii), by inserting "(I)" after "(iii)" and by inserting before the comma the following: "or (II) payment under this title for such services is denied under section 1154(a)(2) by reason of a determination under section 1154(a)(1)(B)"; and

(C) in subsection (l)(1)(C), by inserting "in the case described in subparagraph (A)(iii)(I)" after "to an individual".

(2) Section 1870(f) of such Act (42 U.S.C. 1395gg(f)) is amended by striking "that the reasonable charge is the full charge for the services" each place it appears and inserting "to the terms specified in subclauses (I) and (II) of section 1842(b)(3)(B)(ii) with respect to the services".

(b) INDEMNIFICATION.—Section 1879(b) of such Act (42 U.S.C. 1395pp(b)) is amended—

(1) in the first sentence, by striking ", subject to the deductible and coinsurance provisions of this title,", and

(2) by adding at the end the following: "No item or service for which an individual is indemnified under this subsection shall be taken into account in applying any limitation on the amount of items and services for which payment may be made to or on behalf of the individual under this title.".

(c) PATIENT LIABILITY FOR HOSPITAL CHARGES DURING APPEAL OF DISCHARGE NOTICE.—

(1) Section 1154(e)(2) of such Act (42 U.S.C. 1320c-3(e)(2)) is amended by adding at the end thereof the following: "If the hospital requests such a review, it shall also notify the patient that the review has been requested.".

(2) Sections 1154(e)(3)(A)(i) (42 U.S.C. 1320c-3(e)(3)(A)(i)) and 1154(e)(3)(B) (42 U.S.C. 1320c-3(e)(3)(B)) of such Act are each amended by inserting "or (2)" after "paragraph (1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1988.

SEC. 4097. SEPARATE FUNDING LEVELS.

(a) AGGREGATE FUNDING.—Section 1866(a)(1)(F)(i)(III) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(F)(i)(III)) is amended—

(1) by striking "1986" and inserting "1988"; and

(2) inserting "and for any direct or administrative costs incurred as a result of review functions added with respect to a subsequent fiscal year" after "inflation".

(b) PAYMENT.—Section 1866(a)(4)(C)(ii) of such Act (42 U.S.C. 1395cc(a)(4)(C)(ii)) is amended to read as follows:

"(ii) shall not be less in the aggregate for a fiscal year—

"(I) in the case of hospitals, than the amount specified in paragraph (1)(F)(i)(III), and

"(II) in the case of facilities and agencies, than the amounts the Secretary determines to be sufficient to cover the costs of such organizations' conducting the activities described in subparagraph (A) with respect to such facilities or agencies under part B of title XI.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 1988.

Subtitle B—Medicaid

PART 1—ELIGIBILITY AND BENEFITS

SEC. 4101. MEDICAID BENEFITS FOR POOR CHILDREN AND PREGNANT WOMEN.

(a) MEDICAID OPTIONAL COVERAGE FOR ADDITIONAL LOW-INCOME PREGNANT WOMEN AND CHILDREN.—

(1) Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended—

(A) in paragraph (2)—

(i) by striking "(2) For purposes of paragraph (1)" and inserting "(2)(A) For purposes of paragraph (1) with respect to individuals described in subparagraph (A) or (B) of that paragraph",

(ii) by striking "100 percent" and inserting "185 percent", and

(iii) by adding at the end the following new subparagraph:

"(B) If a State elects, under subsection (a)(10)(A)(ii)(IX), to cover individuals not described in subparagraph (A) or (B) of paragraph (1), for purposes of that paragraph and with respect to individuals not described in such subparagraphs the State shall establish an income level which is a percentage (not more than 100 percent, or, if less, the percentage established under subparagraph (A)) of the income official poverty line described in subparagraph (A).";

and

(B) in paragraph (3)(D), by inserting "appropriate" after "applied is the".

(2) Section 1902(e)(4) of such Act (42 U.S.C. 1396a(e)(4)) is amended by adding at the end the following new sentence: "During the period in which a child is deemed under the preceding sentence to be eligible for medical assistance, the medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).".

(3) The amendments made by this subsection shall apply to medical assistance furnished on or after July 1, 1988.

(b) ALLOWING ACCELERATED COVERAGE OF CHILDREN UP [48a] TO AGE 5.—

(1) Section 1902(l)(1) of such Act (42 U.S.C. 1396a(l)(1)) is amended—

(A) by inserting "and" at the end of subparagraph (B), and

(B) by striking subparagraphs (C) through (F) and inserting the following:

"(C) children born after September 30, 1983, and who have attained one year of age but have not attained 2, 3, 4, or 5 years of age (as selected by the State),".

(2)(A) Section 1902(l) of such Act is further amended—

(i) in paragraph (3)(C), by striking ", (C), (D), (E), or (F)" and inserting "or (C)", and

(ii) in paragraph (4)(B)(ii), by striking ", (D), (E), or (F)".

(B) Section 1902(e)(7) of such Act (42 U.S.C. 1396a(e)(7)) is amended by striking ", (C), (D), (E), or (F)" and inserting "or (C)".

(C) Section 9401(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "(A)" after "(2)" and by striking subparagraphs (B) through (D).

(3) The amendments made by this subsection shall apply with respect to medical assistance furnished on or after July 1, 1988.

(c) COVERAGE OF CHILDREN UP [49] TO AGE 8.—

(1) Section 1905(n)(2) of such Act (42 U.S.C. 1396d(n)(2)) is amended by striking "is under 5 years of age" and inserting "has not attained the age of 7 (or any age designated by the State that exceeds 7 but does not exceed 8)".

(2) Section 1902(l)(1)(C) of such Act, as amended by subsection (b)(1)(B), is further amended by striking "or 5 years" and inserting "5, 6, 7, or 8 years".

(3)(A) The amendments made by this subsection shall apply to medical assistance furnished on or after October 1, 1988.

(B) For purposes of section 1905(n)(2) of the Social Security Act (as amended by subsection (a)) for medical assistance furnished during fiscal year 1989, any reference to "age of 7" is deemed to be a reference to "age of 6".

(d) PREMIUM.—

(1) Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a)(1), by inserting "(except for a premium imposed under subsection (c))" before the semicolon;

(B) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(C) by inserting after subsection (b) the following new subsection:

"(c)(1) The State plan of a State may at the option of the State provide for imposing a monthly premium (in an amount that does not exceed the limit established under paragraph (2)) with respect to an individual described in subparagraph (A) or (B) of section 1902(l)(1) who is receiving medical assistance on the basis of section 1902(a)(10)(A)(ii)(IX) and whose family income (as determined in accordance with the methodology specified in section 1902(l)(3)) equals or exceeds 150 percent of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(2) In no case may the amount of any premium imposed under paragraph (1) exceed 10 percent of the amount by which the family income (less expenses for the care of a dependent child) of an individual exceeds 150 percent of the line described in paragraph (1).

"(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of an individual for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.

"(4) A State may permit State or local funds available under other programs to be used for payment of a premium imposed under paragraph (1). Payment of a premium with such funds shall not be counted as income to the individual with respect to whom such payment is made.".

(2) The amendments made by paragraph (1) shall become effective on July 1, 1988.

(e) MISCELLANEOUS PROVISIONS RELATING TO SERVICES FOR PREGNANT WOMEN AND CHILDREN.—

(1) Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended, in subdivision (VII) of the matter following subparagraph (E), by striking "and postpartum" and inserting "postpartum, and family planning".

(2) Section 1902(e)(5) of such Act (42 U.S.C. 1396a(e)(5)) is amended by striking "until the end of the 60-day period beginning on the last day of her pregnancy" and inserting "through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends".

(3) Section 1902(l)(3)(E) of such Act (42 U.S.C. 1396a(l)(3)(E)) is amended by inserting after "title IV" the following: "(except to the extent such methodology is inconsistent with clause (D) of subsection (a)(17))".

(4) Section 1902(l)(4)(A) of such Act (42 U.S.C. 1396a(l)(4)(A)) is amended by striking "April 17, 1986" and inserting "July 1, 1987".

(5) Section 1902(l)(4) of such Act (42 U.S.C. 1396a(l)(4)) is amended by adding at the end the following new subparagraph:

"(C) A State plan may not provide, in its election of the option of furnishing medical assistance to individuals described in paragraph (1), that such individuals must apply for benefits under part A of title IV as a condition of applying for, or receiving, medical assistance under this title.".

(6)(A) The amendment made by paragraph [50] (1) shall become effective on the date of enactment of this Act.

(B) The amendments made by paragraphs (2) and (3) shall be effective as if they had been included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(C) The amendment made by paragraph (4) shall apply to elections made on or after the enactment of this Act.

(D) The amendment made by paragraph (5) shall apply as if included in the enactment of section 9401 of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4102. HOME AND COMMUNITY-BASED SERVICES FOR THE ELDERLY.

(a) IN GENERAL.—

(1) Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended—

(A) by transferring subsection (d) to the end of such section and redesignating it as subsection (h), and

(B) by inserting after subsection (c) the following new subsection:

"(d)(1) Subject to paragraph (2), the Secretary shall grant a waiver to provide that a State plan approved under this title shall include as 'medical assistance' under such

[48a] Copy read "UP".

[49] Copy read "UP".

[50] Copy read "paragraphs".

plan payment for part or all of the cost of home or community-based services (other than room and board) which are provided pursuant to a written plan of care to individuals 65 years of age or older with respect to whom there has been a determination that but for the provision of such services the individuals would be likely to require the level of care provided in a skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State plan.

"(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

"(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

"(B) with respect to individuals 65 years of age or older who—

"(i) are entitled to medical assistance for skilled nursing or intermediate care facility services under the State plan,

"(ii) may require such services, and

"(iii) may be eligible for such home or community-based services under such waiver,

the State will provide for an evaluation of the need for such skilled nursing facility or intermediate care facility services; and

"(C) such individuals who are determined to be likely to require the level of care provided in a skilled nursing facility or intermediate care facility are informed of the feasible alternatives to the provision of skilled nursing facility or intermediate care facility services, which such individuals may choose if available under the waiver.

Each State with a waiver under this subsection shall provide to the Secretary annually, consistent with a reasonable data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

"(3) A waiver granted under this subsection may include a waiver of the requirements of section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community). Subject to a termination by the State (with notice to the Secretary) at any time, a waiver under this subsection shall be for an initial term of 3 years and, upon the request of a State, shall be extended for additional 5-year periods unless the Secretary determines that for the previous waiver period the assurances provided under paragraph (2) have not been met. A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under the waiver, that the maximum amount of the individual's income which may be disregarded for any month is equal to the amount that may be allowed for that purpose under a waiver under subsection (c).

"(4) A waiver under this subsection may, consistent with paragraph (2), provide medical assistance to individuals for case management services, homemaker/home health aide services and personal care services, adult day health services, respite care, and other medical and social services that can contribute to the health and well-being of individuals and their ability to reside in a community-based care setting.

"(5)(A) In the case of a State having a waiver approved under this subsection, notwithstanding any other provision of section 1903 to the contrary, the total amount expended by the State for medical assistance with respect to skilled nursing facility services, intermediate care facility services, and home and community-based services under the State plan for individuals 65 years of age or older during a waiver year under this subsection may not exceed the projected amount determined under subparagraph (B).

"(B) For purposes of subparagraph (A), the projected amount under this subparagraph is the sum of the following:

"(i) The aggregate amount of the State's medical assistance under this title for skilled nursing facility services and intermediate care facility services furnished to individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent times the number of years beginning after the base year and ending before the waiver year involved or the sum of—

"(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the base year and the waiver year involved, plus

"(II) the percentage increase between the base year and the waiver year involved in the number of residents in the State who have attained the age of 65, plus

"(III) 2 percent for each year beginning after the base year and ending before the waiver year.

"(ii) The aggregate amount of the State's medical assistance under this title for home and community-based services for individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent times the number of years beginning after the base year and ending before the waiver year involved or the sum of—

"(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the base year and the waiver year involved, plus

"(II) the percentage increase between the base year and the waiver year involved in the number of residents in the State who have attained the age of 65, plus

"(III) 2 percent for each year beginning after the base year and ending before the waiver year.

"(iii) The Secretary shall develop and promulgate by regulation (by not later than October 1, 1989)—

"(I) a method, based on an index of appropriately weighted indicators of changes in the wages and prices of the mix of goods and services which comprise both skilled nursing facility services and intermediate care facility services (regardless of the source of payment for such services), for projecting the percentage increase for purposes of clause (i)(I);

"(II) a method, based on an index of appropriately weighted indicators of changes in the wages and prices of the mix of goods and services which comprise home and community-based services (regardless of the source of payment for such services), for projecting the percentage increase for purposes of clause (ii)(I); and

"(III) a method for projecting, on a State specific basis, the percentage increase in the number of residents in each State who are over 75 years of age for any period.

Effective on and after the date the Secretary promulgates the regulation under clause (iii), any reference in this subparagraph to the 'lesser of 7 percent' shall be deemed to be a reference to the 'greater of 7 percent'.

"(C) In this paragraph:

"(i) The term 'home and community-based services' includes services described in sections 1905(a)(7) and 1905(a)(8), services described in subsection (c)(4)(B), services described in paragraph (4)(B), personal care services, and services furnished pursuant to a waiver under subsection (c).

"(ii)(I) Subject to subclause (II), the term 'base year' means the most recent year (ending before the date of the enactment of this subsection) for which actual final expenditures under this title have been reported to, and accepted by, the Secretary.

"(II) For purposes of subparagraph (C), in the case of a State that does not report expenditures on the basis of the age categories described in such subparagraph for a year ending before the date of the enactment of this subsection, the term 'base year' means fiscal year 1989.

"(iii) The term 'intermediate care facility services' does not include services furnished in an institution certified in accordance with section 1905(d).

"(6)(A) A determination by the Secretary to deny a request for a waiver (or extension of waiver) under this subsection shall be subject to review to the extent provided under section 1116(b).

"(B) Notwithstanding any other provision of this Act, if the Secretary denies a request of the State for an extension of a waiver under this subsection, any waiver under this subsection in effect on the date such request is made shall remain in effect for a period of not less than 90 days after the date on which the Secretary denies such request (or, if the State seeks review of such determination in accordance with subparagraph (A), the date on which a final determination is made with respect to such review).".

(2) The amendments made by paragraph (1) shall become effective on January 1, 1988.

(b) CONFORMING AMENDMENTS.—

(1) Section 1902(a)(10)(A)(ii)(VI) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) is amended by striking "section 1915(c)" each place it appears and inserting "subsection (c) or (d) of section 1915".

(2) Section 1915(h) of such Act, as redesignated by subsection (a), is amended by striking "(c)" and inserting in lieu thereof "(c) or (d)".

(c) EXTENSION OF WAIVER.—In the case of a State which, as of December 1, 1987, has a waiver approved with respect to elderly individuals under section 1915(c) of the Social Security Act, which waiver is scheduled to expire before July 1, 1988, if the State notifies the Secretary of Health and Human Services of the State's intention to file an application for a waiver under section 1915(d) of such Act (as amended by subsection (a) of this section), the Secretary shall extend approval of the State's waiver, under section 1915(c) of such Act, on the same terms and conditions through September 30, 1988.

SEC. 4103. PHYSICIANS' SERVICES FURNISHED BY DENTISTS.

(a) CLARIFYING COVERAGE.—Section 1905(a)(5) of the Social Security Act (42 U.S.C. 1396d(a)(5)) is amended by inserting "(A)" after "(5)" and by inserting before the

under this subsection (a) shall include impacts on—

"(1) education, including facilities and personnel for elementary and secondary schools, community colleges, vocational and technical schools and universities;

"(2) public health, including the facilities and personnel for treatment and distribution of water, the treatment of sewage, the control of pests and the disposal of solid waste;

"(3) law enforcement, including facilities and personnel for the courts, police and sheriff's departments, district attorneys and public defenders and prisons;

"(4) fire protection, including personnel, the construction of fire stations, and the acquisition of equipment;

"(5) medical care, including emergency services and hospitals;

"(6) cultural and recreational needs, including facilities and personnel for libraries and museums and the acquisition and expansion of parks;

"(7) distribution of public lands to allow for the timely expansion of existing, or creation of new, communities and the construction of necessary residential and commercial facilities;

"(8) vocational training and employment services;

"(9) social services, including public assistance programs, vocational and physical rehabilitation programs, mental health services, and programs relating to the abuse of alcohol and controlled substances;

"(10) transportation, including any roads, terminals, airports, bridges, or railways associated with the facility and the repair and maintenance of roads, terminals, airports, bridges, or railways damaged as a result of the construction, operation, and closure of the facility;

"(11) equipment and training for State and local personnel in the management of accidents involving high-level radioactive waste;

"(12) availability of energy;

"(13) tourism and economic development, including the potential loss of revenue and future economic growth; and

"(14) other needs of the State and local governments that would not have arisen but for the characterization of the site and the construction, operation, and eventual closure of the repository facility.".

SEC. 5032. PARTICIPATION OF STATES.

(a) FINANCIAL ASSISTANCE.—Section 116(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10136(c)) is amended to read as follows:

"(c) FINANCIAL ASSISTANCE.—(1)(A) The Secretary shall make grants to the State of Nevada and any affected unit of local government for the purpose of participating in activities required by this section and section 117 or authorized by written agreement entered into pursuant to section 117(c). Any salary or travel expense that would ordinarily be incurred by such State or affected unit of local government, may not be considered eligible for funding under this paragraph.

"(B) The Secretary shall make grants to the State of Nevada and any affected unit of local government for purposes of enabling such State or affected unit of local government—

"(i) to review activities taken under this subtitle with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of a repository on such State, or affected unit of local government and its residents;

"(ii) to develop a request for impact assistance under paragraph (2);

"(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

"(iv) to provide information to Nevada residents regarding any activities of such State, the Secretary, or the Commission with respect to such site; and

"(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

"(C) Any salary or travel expense that would ordinarily be incurred by the State of Nevada or any affected unit of local government may not be considered eligible for funding under this paragraph.

"(2)(A)(i) The Secretary shall provide financial and technical assistance to the State of Nevada, and any affected unit of local government requesting such assistance.

"(ii) Such assistance shall be designed to mitigate the impact on such State or affected unit of local government of the development of such repository and the characterization of such site.

"(iii) Such assistance to such State or affected unit of local government of such State shall commence upon the initiation of site characterization activities.

"(B) The State of Nevada and any affected unit of local government may request assistance under this subsection by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from site characterization activities at the Yucca Mountain site. Such report shall be submitted to the Secretary after the Secretary has submitted to the State a general plan for site characterization activities under section 113(b).

"(C) As soon as practicable after the Secretary has submitted such site characterization plan, the Secretary shall seek to enter into a binding agreement with the State of Nevada setting forth—

"(i) the amount of assistance to be provided under this subsection to such State or affected unit of local government; and

"(ii) the procedures to be followed in providing such assistance.

"(3)(A) In addition to financial assistance provided under paragraphs (1) and (2), the Secretary shall grant to the State of Nevada and any affected unit of local government an amount each fiscal year equal to the amount such State or affected unit of local government, respectively, would receive if authorized to tax site characterization activities at such site, and the development and operation of such repository, as such State or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such State or affected unit of local government.

"(B) Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

"(4)(A) The State of Nevada or any affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

"(i) the date on which the Secretary notifies the Governor and legislature of the State of Nevada of the termination of site characterization activities at the site in such State;

"(ii) the date on which the Yucca Mountain site is disapproved under section 115; or

"(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first.

"(B) The State of Nevada or any affected unit of local government may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities or site characterization activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

"(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository in a State, no Federal funds, shall be made available to such State or affected unit of local government under paragraph (1) or (2), except for—

"(i) such funds as may be necessary to support activities related to any other repository located in, or proposed to be located in, such State, and for which a license to receive and possess has not been in effect for more than 1 year;

"(ii) such funds as may be necessary to support State activities pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such State with the Secretary during such 2-year period; and

"(iii) such funds as may be provided under an agreement entered into under title IV.

"(5) Financial assistance authorized in this subsection shall be made out of amounts held in the Waste Fund.

"(6) No State, other than the State of Nevada, may receive financial assistance under this subsection after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987.".

SEC. 5033. PARTICIPATION OF INDIAN TRIBES.

Section 118(b)(5) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10138(b)(5)) is amended by—

(1) striking "or" at the end of clause (ii); and

(2) adding at the end the following new clause:

"(iv) the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987;".

PART D—NUCLEAR WASTE NEGOTIATOR

SEC. 5041. NUCLEAR WASTE NEGOTIATOR.

The Nuclear Waste Policy Act of 1982 is amended by adding at the end the following new title:

"TITLE IV—NUCLEAR WASTE NEGOTIATOR

"DEFINITION

"SEC. 401. For purposes of this title, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, any other territory or possession of the United States, and the Republic of the Marshall Islands.

"THE OFFICE OF THE NUCLEAR WASTE NEGOTIATOR

"SEC. 402. (a) ESTABLISHMENT.—There is established within the Executive Office of the President the Office of the Nuclear Waste Negotiator.

"(b) THE NUCLEAR WASTE NEGOTIATOR.—(1) The Office shall be headed by a Nuclear Waste Negotiator who shall be appointed by the President, by and with the advice and consent of the Senate. The Negotiator shall

hold office at the pleasure of the President, and shall be compensated at the rate provided for level III of the Executive Schedule in section 5314 of title 5, United States Code.

"(2) The Negotiator shall attempt to find a State or Indian tribe willing to host a repository or monitored retrievable storage facility at a technically qualified site on reasonable terms and shall negotiate with any State or Indian tribe which expresses an interest in hosting a repository or monitored retrievable storage facility.

"DUTIES OF THE NEGOTIATOR

"SEC. 403. (a) NEGOTIATIONS WITH POTENTIAL HOSTS.—(1) The Negotiator shall—

"(A) seek to enter into negotiations on behalf of the United States, with—

"(i) the Governor of any State in which a potential site is located; and

"(ii) the governing body of any Indian tribe on whose reservation a potential site is located; and

"(B) attempt to reach a proposed agreement between the United States and any such State or Indian tribe specifying the terms and conditions under which such State or tribe would agree to host a repository or monitored retrievable storage facility within such State or reservation.

"(2) In any case in which State law authorizes any person or entity other than the Governor to negotiate a proposed agreement under this section on behalf of the State, any reference in this title to the Governor shall be considered to refer instead to such other person or entity.

"(b) CONSULTATION WITH AFFECTED STATES, SUBDIVISIONS OF STATES, AND TRIBES.—In addition to entering into negotiations under subsection (a), the Negotiator shall consult with any State, affected unit of local government, or any Indian tribe that the Negotiator determines may be affected by the siting of a repository or monitored retrievable storage facility and may include in any proposed agreement such terms and conditions relating to the interest of such States, affected units of local government, or Indian tribes as the Negotiator determines to be reasonable and appropriate.

"(c) CONSULTATION WITH OTHER FEDERAL AGENCIES.—The Negotiator may solicit and consider the comments of the Secretary, the Nuclear Regulatory Commission, or any other Federal agency on the suitability of any potential site for site characterization. Nothing in this subsection shall be construed to require the Secretary, the Nuclear Regulatory Commission, or any other Federal agency to make a finding that any such site is suitable for site characterization.

"(d) PROPOSED AGREEMENT.—(1) The Negotiator shall submit to the Congress any proposed agreement between the United States and a State or Indian tribe negotiated under subsection (a) and an environmental assessment prepared under section 404(a) for the site concerned.

"(2) Any such proposed agreement shall contain such terms and conditions (including such financial and institutional arrangements) as the Negotiator and the host State or Indian tribe determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of such State, affected unit of local government, or Indian tribe under sections 116(c), 117, and 118(b).

"(3)(A) No proposed agreement entered into under this section shall have legal effect unless enacted into Federal law.

"(B) A State or Indian tribe shall enter into an agreement under this section in accordance with the laws of such State or tribe. Nothing in this section may be construed to prohibit the disapproval of a proposed agreement between a State and the United States under this section by a referendum or an act of the legislature of such State.

"(4) Notwithstanding any proposed agreement under this section, the Secretary may construct a repository or monitored retrievable storage facility at a site agreed to under this title only if authorized by the Nuclear Regulatory Commission in accordance with the Atomic Energy Act of 1954 (42 U.S.C. 2012 et seq.), title II of the Energy Reorganization Act of 1982 (42 U.S.C. 5841 et seq.) and any other law applicable to authorization of such construction.

"ENVIRONMENTAL ASSESSMENT OF SITES

"SEC. 404. (a) IN GENERAL.—Upon the request of the Negotiator, the Secretary shall prepare an environmental assessment of any site that is the subject of negotiations under section 403(a).

"(b) CONTENTS.—(1) Each environmental assessment prepared for a repository site shall include a detailed statement of the probable impacts of characterizing such site and the construction and operation of a repository at such site.

"(2) Each environmental assessment prepared for a monitored retrievable storage facility site shall include a detailed statement of the probable impacts of construction and operation of such a facility at such site.

"(c) JUDICIAL REVIEW.—The issuance of an environmental assessment under subsection (a) shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119.

"(d) PUBLIC HEARINGS.—(1) In preparing an environmental assessment for any repository or monitored retrievable storage facility site, the Secretary shall hold public hearings in the vicinity of such site to inform the residents of the area in which such site is located that such site is being considered and to receive their comments.

"(2) At such hearings, the Secretary shall solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment required under subsection (a) and the site characterization plan described in section 113(b)(1).

"(e) PUBLIC AVAILABILITY.—Each environmental assessment prepared under subsection (a) shall be made available to the public.

"(f) EVALUATION OF SITES.—(1) In preparing an environmental assessment under subsection (a), the Secretary shall use available geophysical, geologic, geochemical and hydrologic, and other information and shall not conduct any preliminary borings or excavations at any site that is the subject of such assessment unless—

"(A) such preliminary boring or excavation activities were in progress on or before the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987; or

"(B) the Secretary certifies that, in the absence of preliminary borings or excavations, adequate information will not be available to satisfy the requirements of this Act or any other law.

"(2) No preliminary boring or excavation conducted under this section shall exceed a diameter of 40 inches.

"SITE CHARACTERIZATION; LICENSING

"SEC. 405. (a) SITE CHARACTERIZATION.—Upon enactment of legislation to implement an agreement to site a repository negotiated under section 403(a), the Secretary shall conduct appropriate site characterization activities for the site that is the subject of such agreement subject to the conditions and terms of such agreement. Any such site characterization activities shall be conducted in accordance with section 113, except that references in such section to the Yucca Mountain site and the State of Nevada shall be deemed to refer to the site that is the subject of the agreement and the State or Indian tribe entering into the agreement.

"(b) LICENSING.—(1) Upon the completion of site characterization activities carried out under subsection (a), the Secretary shall submit to the Nuclear Regulatory Commission an application for construction authorization for a repository at such site.

"(2) The Nuclear Regulatory Commission shall consider an application for a construction authorization for a repository or monitored retrievable storage facility in accordance with the laws applicable to such applications, except that the Nuclear Regulatory Commission shall issue a final decision approving or disapproving the issuance of a construction authorization not later than 3 years after the date of the submission of such application.

"MONITORED RETRIEVABLE STORAGE

"SEC. 406. (a) CONSTRUCTION AND OPERATION.—Upon enactment of legislation to implement an agreement negotiated under section 403(a) to site a monitored retrievable storage facility, the Secretary shall construct and operate such facility as part of an integrated nuclear waste management system in accordance with the terms and conditions of such agreement.

"(b) FINANCIAL ASSISTANCE.—The Secretary may make grants to any State, Indian tribe, or affected unit of local government to assess the feasibility of siting a monitored retrievable storage facility under this section at a site under the jurisdiction of such State, tribe, or affected unit of local government.

"ENVIRONMENTAL IMPACT STATEMENT

"SEC. 407. (a) IN GENERAL.—Issuance of a construction authorization for a repository or monitored retrievable storage facility under section 405(b) shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(b) PREPARATION.—A final environmental impact statement shall be prepared by the Secretary under such Act and shall accompany any application to the Nuclear Regulatory Commission for a construction authorization.

"(c) ADOPTION.—(1) Any such environmental impact statement shall, to the extent practicable, be adopted by the Nuclear Regulatory Commission, in accordance with section 1506.3 of title 40, Code of Federal Regulations, in connection with the issuance by the Nuclear Regulatory Commission of a construction authorization and license for such repository or monitored retrievable storage facility.

"(2)(A) In any such statement prepared with respect to a repository to be constructed under this title at the Yucca Mountain site, the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, alternate sites to the Yucca Mountain site, or nongeologic alternatives to such site.

"(B) In any such statement prepared with respect to a repository to be constructed

under this title at a site other than the Yucca Mountain site, the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, or nongeologic alternatives to such site but shall consider the Yucca Mountain site as an alternate to such site in the preparation of such statement.

"ADMINISTRATIVE POWERS OF THE NEGOTIATOR

"SEC. 408. In carrying out his functions under this title, the Negotiator may—

"(1) appoint such officers and employees as he determines to be necessary and prescribe their duties;

"(2) obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code;

"(3) promulgate such rules and regulations as may be necessary to carry out such functions;

"(4) utilize the services, personnel, and facilities of other Federal agencies (subject to the consent of the head of any such agency);

"(5) for purposes of performing administrative functions under this title, and to the extent funds are appropriated, enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary and on such terms as the Negotiator determines to be appropriate, with any agency or instrumentality of the United States, or with any public or private person or entity;

"(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

"(7) adopt an official seal, which shall be judicially noticed;

"(8) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States;

"(9) hold such hearings as are necessary to determine the views of interested parties and the general public; and

"(10) appoint advisory committees under the Federal Advisory Committee Act (5 U.S.C. App.).

"COOPERATION OF OTHER DEPARTMENTS AND AGENCIES

"SEC. 409. Each department, agency, and instrumentality of the United States, including any independent agency, may furnish the Negotiator such information as he determines to be necessary to carry out his functions under this title.

"TERMINATION OF THE OFFICE

"SEC. 410. The Office shall cease to exist not later than 30 days after the date 5 years after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 411. Notwithstanding subsection (d) of section 302, and subject to subsection (e) of such section, there are authorized to be appropriated for expenditures from amounts in the Waste Fund established in subsection (c) of such section, such sums as may be necessary to carry out the provisions of this title.".

PART E—NUCLEAR WASTE TECHNICAL REVIEW BOARD

SEC. 5051. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

The Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) is further amended by adding at the end the following new title:

"TITLE V—NUCLEAR WASTE TECHNICAL REVIEW BOARD

"DEFINITIONS

"SEC. 501. As used in this title:

"(1) The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

"(2) The term 'Board' means the Nuclear Waste Technical Review Board established under section 502.

"NUCLEAR WASTE TECHNICAL REVIEW BOARD

"SEC. 502. (a) ESTABLISHMENT.—There is established a Nuclear Waste Technical Review Board that shall be an independent establishment within the executive branch.

"(b) MEMBERS.—(1) The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987 from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

"(2) The President shall designate a member of the Board to serve as chairman.

"(3)(A) The National Academy of Sciences shall, not later than 90 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

"(B) The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

"(C)(i) Each person nominated for appointment to the Board shall be—

"(I) eminent in a field of science or engineering, including environmental sciences; and

"(II) selected solely on the basis of established records of distinguished service.

"(ii) The membership of the Board shall be representative of the broad range of scientific and engineering disciplines related to activities under this title.

"(iii) No person shall be nominated for appointment to the Board who is an employee of—

"(I) the Department of Energy;

"(II) a national laboratory under contract with the Department of Energy; or

"(III) an entity performing high-level radioactive waste or spent nuclear fuel activities under contract with the Department of Energy.

"(4) Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

"(5) Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after the date of enactment of the Nuclear Waste Policy Amendments Act of 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment.

"FUNCTIONS

"SEC. 503. The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, including—

"(1) site characterization activities; and

"(2) activities relating to the packaging or transportation of high-level radioactive waste or spent nuclear fuel.

"INVESTIGATORY POWERS

"SEC. 504. (a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(b) PRODUCTION OF DOCUMENTS.—(1) Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information as may be necessary to respond to any inquiry of the Board under this title.

"(2) Subject to existing law, information obtainable under paragraph (1) shall not be limited to final work products of the Secretary, but shall include drafts of such products and documentation of work in progress.

"COMPENSATION OF MEMBERS

"SEC. 505. (a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

"(b) TRAVEL EXPENSES.—Each member of the Board may receive travel expenses, including per diem in lieu of subsistence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"STAFF

"SEC. 506. (a) CLERICAL STAFF.—(1) Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

"(2) Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) PROFESSIONAL STAFF.—(1) Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

"(2) Not more than 10 professional staff members may be appointed under this subsection.

"(3) Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

"SUPPORT SERVICES

"SEC. 507. (a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

"(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General, the Librarian of Congress, and the Director of the Office of Technology

Assessment shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

"(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

"(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

"REPORT

"SEC. 508. The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations. The first such report shall be submitted not later than 12 months after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 509. Notwithstanding subsection (d) of section 302, and subject to subsection (e) of such section, there are authorized to be appropriated for expenditures from amounts in the Waste Fund established in subsection (c) of such section such sums as may be necessary to carry out the provisions of this title.

"TERMINATION OF THE BOARD

"SEC. 510. The Board shall cease to exist not later than 1 year after the date on which the Secretary begins disposal of high-level radioactive waste or spent nuclear fuel in a repository.".

PART F—MISCELLANEOUS

SEC. 5061. TRANSPORTATION.

Title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10121-10171) is further amended by adding at the end the following new subtitle:

"SUBTITLE H—TRANSPORTATION

"TRANSPORTATION

"SEC. 180. (a) No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under subtitle A or under subtitle C except in packages that have been certified for such purpose by the Commission.

"(b) The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under subtitle A or under subtitle C.

"(c) The Secretary shall provide technical assistance and funds to States for training for public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste under subtitle A or under subtitle C. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. The Waste Fund shall be the source of funds for work carried out under this subsection.".

SEC. 5062. TRANSPORTATION OF PLUTONIUM BY AIRCRAFT THROUGH UNITED STATES AIR SPACE.

(a) IN GENERAL.—Notwithstanding any other provision of law, no form of plutonium may be transported by aircraft through the air space of the United States from a foreign nation to a foreign nation unless the Nuclear Regulatory Commission has certified to Congress that the container in which such plutonium is transported is safe, as determined in accordance with subsection (b), the second undesignated paragraph under section 201 of Public Law 94-79 (89 Stat. 413; 42 U.S.C. 5841 note), and all other applicable laws.

(b) RESPONSIBILITIES OF THE NUCLEAR REGULATORY COMMISSION.—

(1) DETERMINATION OF SAFETY.—The Nuclear Regulatory Commission shall determine whether the container referred to in subsection (a) is safe for use in the transportation of plutonium by aircraft and transmit to Congress a certification for the purposes of such subsection in the case of each container determined to be safe.

(2) TESTING.—In order to make a determination with respect to a container under paragraph (1), the Nuclear Regulatory Commission shall—

(A) require an actual drop test from maximum cruising altitude of a full-scale sample of such container loaded with test materials; and

(B) require an actual crash test of a cargo aircraft fully [77] loaded with full-scale samples of such container loaded with test material unless the Commission determines, after consultation with an independent scientific review panel, that the stresses on the container produced by other tests used in developing the container exceed the stresses which would occur during a worst case plutonium air shipment accident.

(3) LIMITATION.—The Nuclear Regulatory Commission may not certify under this section that a container is safe for use in the transportation of plutonium by aircraft if the container ruptured or released its contents during testing conducted in accordance with paragraph (2).

(4) EVALUATION.—The Nuclear Regulatory Commission shall evaluate the container certification required by title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) and subsection (a) in accordance with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 et seq.) and all other applicable law.

(c) CONTENT OF CERTIFICATION.—A certification referred to in subsection (a) with respect to a container shall include—

(1) the determination of the Nuclear Regulatory Commission as to the safety of such container;

(2) a statement that the requirements of subsection (b)(2) were satisfied in the testing of such container; and

(3) a statement that the container did not rupture or release its contents into the environment during testing.

(d) DESIGN OF TESTING PROCEDURES.—The tests required by subsection (b) shall be designed by the Nuclear Regulatory Commission to replicate actual worst case transportation conditions to the maximum extent practicable. In designing such tests, the Commission shall provide for public notice of the proposed test procedures, provide a reasonable opportunity for public comment on such procedures, and consider such comments, if any.

[77] Copy read "full".

(e) TESTING RESULTS: REPORTS AND PUBLIC DISCLOSURE.—The Nuclear Regulatory Commission shall transmit to Congress a report on the results of each test conducted under this section and shall make such results available to the public.

(f) ALTERNATIVE ROUTES AND MEANS OF TRANSPORTATION.—With respect to any shipments of plutonium from a foreign nation to a foreign nation which are subject to United States consent rights contained in an Agreement for Peaceful Nuclear Cooperation, the President is authorized to make every effort to pursue and conclude arrangements for alternative routes and means of transportation, including sea shipment. All such arrangements shall be subject to stringent physical security conditions, and other conditions designed to protect the public health and safety, and provisions of this section, and all other applicable laws.

(g) INAPPLICABILITY TO MEDICAL DEVICES.—Subsections (a) through (e) shall not apply with respect to plutonium in any form contained in a medical device designed for individual human application.

(h) INAPPLICABILITY TO MILITARY USES.—Subsections (a) through (e) shall not apply to plutonium in the form of nuclear weapons nor to other shipments of plutonium determined by the Department of Energy to be directly connected with the United States national security or defense programs.

(i) INAPPLICABILITY TO PREVIOUSLY CERTIFIED CONTAINERS.—This section shall not apply to any containers for the shipment of plutonium previously certified as safe by the Nuclear Regulatory Commission under Public Law 94-79 (89 Stat. 413; 42 U.S.C. 5841 note).

(j) PAYMENT OF COSTS.—All costs incurred by the Nuclear Regulatory Commission associated with the testing program required by this section, and administrative costs related thereto, shall be reimbursed to the Nuclear Regulatory Commission by any foreign country receiving plutonium shipped through United States airspace in containers specified by the Commission.

SEC. 5063. SUBSEABED DISPOSAL.

Title II of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10191-10203) is amended by adding at the end the following new section:

"SUBSEABED DISPOSAL

"SEC. 224. (a) STUDY.—Within 270 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, the Secretary shall report to Congress on subseabed disposal of spent nuclear fuel and high-level radioactive waste. The report under this subsection shall include—

"(1) an assessment of the current state of knowledge of subseabed disposal as an alternative technology for disposal of spent nuclear fuel and high-level radioactive waste;

"(2) an estimate of the costs of subseabed disposal;

"(3) an analysis of institutional factors associated with subseabed disposal, including international aspects of a decision of the United States to proceed with subseabed disposal as an option for nuclear waste management;

"(4) a full discussion of the environmental and public health and safety aspects of subseabed disposal;

"(5) recommendations on alternative ways to structure an effort in research, development, and demonstration with respect to subseabed disposal; and

"(6) the recommendations of the Secretary with respect to research, development and demonstration in subseabed disposal of spent nuclear fuel and high-level radioactive waste.

"(b) OFFICE OF SUBSEABED DISPOSAL RESEARCH.—(1) There is hereby established an Office of Subseabed Disposal Research within the Office of Energy Research of the Department of Energy. The Office shall be headed by the Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Energy Research, and compensated at a rate determined by applicable law.

"(2) The Director of the Office of Subseabed Disposal Research shall be responsible for carrying out research, development, and demonstration activities on all aspects of subseabed disposal of high-level radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Director of the Office of Energy Research, and the first such Director shall be appointed within 30 days of the date of enactment of the Nuclear Waste Policy Amendments Act of 1987.

"(3) In carrying out his responsibilities under this Act, the Secretary may make grants to, or enter into contracts with, the Subseabed Consortium described in subsection (d) of this section, and other persons.

"(4)(A) Within 60 days of the date of enactment of the Nuclear Waste Policy Amendments Act of 1987, the Secretary shall establish a university-based Subseabed Consortium involving leading oceanographic universities and institutions, national laboratories, and other organizations to investigate the technical and institutional feasibility of subseabed disposal.

"(B) The Subseabed Consortium shall develop a research plan and budget to achieve the following objectives by 1995:

"(i) demonstrate the capacity to identify and characterize potential subseabed disposal sites;

"(ii) develop conceptual designs for a subseabed disposal system, including estimated costs and institutional requirements; and

"(iii) identify and assess the potential impacts of subseabed disposal on the human and marine environment.

"(C) In 1990, and again in 1995, the Subseabed Consortium shall report to Congress on the progress being made in achieving the objectives of paragraph (2).

"(5) The Director of the Office of Subseabed Disposal Research shall annually prepare and submit a report to the Congress on the activities and expenditures of the Office.".

SEC. 5064. DRY CASK STORAGE.

(a) STUDY.—During the period between the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987 and October 1, 1988, the Secretary of Energy (hereinafter in this section referred to as the "Secretary") shall conduct a study and evaluation of the use of dry cask storage technology at the sites of civilian nuclear power reactors for the temporary storage of spent nuclear fuel until such time as a permanent geologic repository has been constructed and licensed by the Nuclear Regulatory Commission (hereinafter in this section referred to as the "Commission") and is capable of receiving spent nuclear fuel. The Secretary shall report to Congress on the study under this paragraph by October 1, 1988.

(b) CONTENTS OF STUDY.—In conducting the study under paragraph (1) the Secretary shall—

(1) consider the costs of dry cask storage technology, the extent to which dry cask storage on the site of civilian nuclear power reactors will affect human health and the environment, the extent to which the storage on the sites of civilian nuclear power reactors affects the costs and risk of transporting spent nuclear fuel to a central facility such as a monitored retrievable storage facility, and any other factors the Secretary considers appropriate;

(2) consider the extent to which amounts in the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) can be used, and should be used, to provide funds to construct, operate, maintain, and safeguard spent nuclear fuel in dry cask storage at the sites for civilian nuclear power reactors;

(3) consult with the Commission and include the views of the Commission in the report under paragraph (1); and

(4) solicit the views of State and local governments and the public.

SEC. 5065. AMENDMENTS TO THE TABLE OF CONTENTS.

The table of contents of the Nuclear Waste Policy Act of 1982 is amended by—

(1) adding at the end of subtitle C the following new sections:

"Sec. 142. Authorization of monitored retrievable storage.
"Sec. 143. Monitored Retrievable Storage Commission.
"Sec. 144. Survey.
"Sec. 145. Site selection.
"Sec. 146. Notice of disapproval.
"Sec. 147. Benefits agreement.
"Sec. 148. Construction authorization.
"Sec. 149. Financial assistance.";

(2) adding at the end of title I the following new subtitles:

"SUBTITLE E—REDIRECTION OF THE NUCLEAR WASTE PROGRAM

"Sec. 160. Selection of Yucca Mountain site.
"Sec. 161. Siting a second repository.

"SUBTITLE F—BENEFITS

"Sec. 170. Benefits agreements.
"Sec. 171. Content of agreements.
"Sec. 172. Review panel.
"Sec. 173. Termination.

"SUBTITLE G—OTHER BENEFITS

"Sec. 174. Consideration in siting facilities.
"Sec. 175. Report.

"SUBTITLE H—TRANSPORTATION

"Sec. 180. Transportation.";

(3) adding at the end of title II the following new section:

"Sec. 224. Subseabed disposal."; and

(4) adding at the end the following new titles:

"TITLE IV—NUCLEAR WASTE NEGOTIATOR

"Sec. 401. Definition.
"Sec. 402. The Office of Nuclear Waste Negotiator.
"Sec. 403. Duties of the Negotiator.
"Sec. 404. Environmental assessment of sites.
"Sec. 405. Site characterization; licensing.
"Sec. 406. Monitored retrievable storage.
"Sec. 407. Environmental impact statement.
"Sec. 408. Administrative powers of the Negotiator.
"Sec. 409. Cooperation of other departments and agencies.
"Sec. 410. Termination of the office.".

Subtitle B—Federal Onshore Oil and Gas Leasing Reform Act of 1987

SEC. 5101. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This subtitle may be cited as the "Federal Onshore Oil and Gas Leasing Reform Act of 1987".

(b) REFERENCES.—Any reference in this subtitle to the "Act of February 25, 1920", is a reference to the Act of February 25, 1920, entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain" (30 U.S.C. 181 and following).

SEC. 5102. OIL AND GAS LEASING SYSTEM.

(a) COMPETITIVE BIDDING.—Section 17(b)(1) of the Act of February 25, 1920 (30 U.S.C. 226(b)(1)), is amended to read as follows:

"(b)(1)(A) All lands to be leased which are not subject to leasing under paragraph (2) of this subsection shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 2,560 acres, except in Alaska, where units shall be not more than 5,760 acres. Such units shall be as nearly compact as possible. Lease sales shall be conducted by oral bidding. Lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary. A lease shall be conditioned upon the payment of a royalty at a rate of not less than 12.5 percent in amount or value of the production removed or sold from the lease. The Secretary shall accept the highest bid from a responsible qualified bidder which is equal to or greater than the national minimum acceptable bid, without evaluation of the value of the lands proposed for lease. Leases shall be issued within 60 days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year. All bids for less than the national minimum acceptable bid shall be rejected. Lands for which no bids are received or for which the highest bid is less than the national minimum acceptable bid shall be offered promptly within 30 days for leasing under subsection (c) of this section and shall remain available for leasing for a period of 2 years after the competitive lease sale.

"(B) The national minimum acceptable bid shall be $2 per acre for a period of 2 years from the date of enactment of the Federal Onshore Oil and Gas Leasing Reform Act of 1987. Thereafter, the Secretary may establish by regulation a higher national minimum acceptable bid for all leases based upon a finding that such action is necessary: (i) to enhance financial returns to the United States; and (ii) to promote more efficient management of oil and gas resources on Federal lands. Ninety days before the Secretary makes any change in the national minimum acceptable bid, the Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The proposal or promulgation of any regulation to establish a national minimum acceptable bid shall not be considered a major Federal action subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969.".

(b) NONCOMPETITIVE LEASING.—Section 17(c) of the Act of February 25, 1920 (30 U.S.C. 226(c)), is amended to read as follows:

"(c)(1) If the lands to be leased are not leased under subsection (b)(1) of this section or are not subject to competitive leasing under subsection (b)(2) of this section, the person first making application for the lease who is qualified to hold a lease under this Act shall be entitled to a lease of such lands without competitive bidding, upon payment of a non-refundable application fee of at least $75. A lease under this subsection shall be conditioned upon the payment of a royalty at a rate of 12.5 percent in amount or value of the production removed or sold from the lease. Leases shall be issued within 60 days of the date on which the Secretary identifies the first responsible qualified applicant.

"(2)(A) Lands (i) which were posted for sale under subsection (b)(1) of this section but for which no bids were received or for which the highest bid was less than the national minimum acceptable bid and (ii) for which, at the end of the period referred to in subsection (b)(1) of this section no lease has been issued and no lease application is pending under paragraph (1) of this subsection, shall again be available for leasing only in accordance with subsection (b)(1) of this section.

"(B) The land in any lease which is issued under paragraph (1) of this subsection or under subsection (b)(1) of this section which lease terminates, expires, is cancelled or is relinquished shall again be available for leasing only in accordance with subsection (b)(1) of this section.".

(c) RENTALS.—Section 17(d) of the Act of February 25, 1920 (30 U.S.C. 226(d)), is amended to read as follows:

"(d) All leases issued under this section, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, shall be conditioned upon payment by the lessee of a rental of not less than $1.50 per acre per year for the first through fifth years of the lease and not less than $2 per acre per year for each year thereafter. A minimum royalty in lieu of rental of not less than the rental which otherwise would be required for that lease year shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.".

(d) NOTICE AND RECLAMATION.—(1) Section 17 of the Act of February 25, 1920 (30 U.S.C. 226), is amended by redesignating subsections (f) through (k) as subsections (i) through (n) and by adding the following new subsections (f) through (h):

"(f) At least 45 days before offering lands for lease under this section, and at least 30 days before approving applications for permits to drill under the provisions of a lease or substantially modifying the terms of any lease issued under this section, the Secretary shall provide notice of the proposed action. Such notice shall be posted in the appropriate local office of the leasing and land management agencies. Such notice shall include the terms or modified lease terms and maps or a narrative description of the affected lands. Where the inclusion of maps in such notice is not practicable, maps of the affected lands shall be made available to the public for review. Such maps shall show the location of all tracts to be leased, and of all leases already issued in the general area. The requirements of this subsection are in addition to any public notice required by other law.

"(g) The Secretary of the Interior, or for National Forest lands, the Secretary of Agriculture, shall regulate all surface-disturbing activities conducted pursuant to any lease issued under this Act, and shall determine reclamation and other actions as required in the interest of conservation of surface resources. No permit to drill on an oil and gas lease issued under this Act may be granted without the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area. The Secretary concerned shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary of the Interior or Secretary of Agriculture, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established under this section for any prior lease to which such requirements and standards applied. Prior to making such determination with respect to any such entity the concerned Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned an oil or gas lease may be issued to such entity under this Act.

"(h) The Secretary of the Interior may not issue any lease on National Forest System Lands reserved from the public domain over the objection of the Secretary of Agriculture.".

(2) Section 31(h) of the Act of February 25, 1920 (30 U.S.C. 188(h)), is amended by striking out "section 17(j)" and substituting "section 17(m)".

SEC. 5103. ASSIGNMENTS.

Sections 30(a) and 30(b) of the Act of February 25, 1920 (30 U.S.C. 187a, 187b), are redesignated as sections 30A and 30B, respectively, and the third sentence of section 30A, as so redesignated, is amended to read as follows: "The Secretary shall disapprove the assignment or sublease only for lack of qualification of the assignee or sublessee or for lack of sufficient bond: *Provided, however,* That the Secretary may, in his discretion, disapprove an assignment of any of the following, unless the assignment constitutes the entire lease or is demonstrated to further the development of oil and gas:

"(1) A separate zone or deposit under any lease.

"(2) A part of a legal subdivision.

"(3) Less than 640 acres outside Alaska or of less than 2,560 acres within Alaska.

Requests for approval of assignment or sublease shall be processed promptly by the Secretary. Except where the assignment or sublease is not in accordance with applicable law, the approval shall be given within 60 days of the date of receipt by the Secretary of a request for such approval.".

SEC. 5104. LEASE CANCELLATION.

The first sentence of section 31(b) of the Act of February 25, 1920 (30 U.S.C. 188(b)) is amended to read as follows: "Any lease issued after August 21, 1935, under the provisions of section 17 of this Act shall be subject to cancellation by the Secretary of the Interior after 30 days notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the leasehold contains a well capable of production of oil or gas in paying quantities, or the lease is committed to an approved cooperative or unit plan or communitization agreement under section 17(m) of this Act which contains a well capable of production of unitized substances in paying quantities.".

SEC. 5105. ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.

Section 1008 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3148) is amended as follows:

(1) Subsections (c) and (e) are deleted in their entirety.

(2) The second sentence of subsection 1008(d) is deleted.

SEC. 5106. PENDING APPLICATIONS, OFFERS, AND BIDS.

(a) Notwithstanding any other provision of this subtitle and except as provided in subsection (b) of this section, all noncompetitive oil and gas lease applications and offers and competitive oil and gas bids pending on the date of enactment of this subtitle shall be processed, and leases shall be issued under the provisions of the Act of February 25, 1920, as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law.

(b) No noncompetitive lease applications or offers pending on the date of enactment of this subtitle for lands within the Shawnee National Forest, Illinois; the Ouachita National Forest, Arkansas; Fort Chaffee, Arkansas; or Eglin [79] Air Force Base, Florida; shall be processed until these lands are posted for competitive bidding in accordance with section 5102 of this subtitle. If any such tract does not receive a bid equal to or greater than the national minimum acceptable bid from a responsible qualified bidder then the noncompetitive applications or offers pending for such a tract shall be reinstated and noncompetitive leases issued under the Act of February 25, 1920, as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law. If competitive leases are issued for any such tract, then the pending noncompetitive application or offer shall be rejected.

(c) Except as provided in subsections (a) and (b) of this section, all oil and gas leasing pursuant to the Act of February 25, 1920, after the date of enactment of this subtitle shall be conducted in accordance with the provisions of this subtitle.

SEC. 5107. REGULATIONS; TEST SALE.

(a) REGULATIONS.—The Secretary shall issue final regulations to implement this subtitle within 180 days after the enactment of this subtitle. The regulations shall be effective when published in the Federal Register.

(b) TREATMENT UNDER OTHER LAW.—The proposal or promulgation of such regulations shall not be considered a major Federal action subject to the requirements of sec-

[79] Copy read "Elgin".

tion 102(2)(C) of the National Environmental Policy Act of 1969.

(c) TEST SALE.—The Secretary may hold one or more lease sales conducted in accordance with the amendments made by this subtitle before promulgation of regulations referred to in subsection (a). Sale procedures for such sale shall be established in the notice of sale.

SEC. 5108. ENFORCEMENT.

The Act of February 25, 1920, is amended by inserting after section 40 the following new section:

"SEC. 41. ENFORCEMENT.

"(a) VIOLATIONS.—It shall be unlawful for any person:

"(1) to organize or participate in any scheme, arrangement, plan, or agreement to circumvent or defeat the provisions of this Act or its implementing regulations, or

"(2) to seek to obtain or to obtain any money or property by means of false statements of material facts or by failing to state material facts concerning:

"(A) the value of any lease or portion thereof issued or to be issued under this Act;

"(B) the availability of any land for leasing under this Act;

"(C) the ability of any person to obtain leases under this Act; or

"(D) the provisions of this Act and its implementing regulations.

"(b) PENALTY.—Any person who knowingly violates the provisions of subsection (a) of this section shall be punished by a fine of not more than $500,000, imprisonment for not more than five years, or both.

"(c) CIVIL ACTIONS.—Whenever it shall appear that any person is engaged, or is about to engage, in any act which constitutes or will constitute a violation of subsection (a) of this section, the Attorney General may institute a civil action in the district court of the United States for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located, for a temporary restraining order, injunction, civil penalty of not more than $100,000 for each violation, or other appropriate remedy, including but not limited to, a prohibition from participation in exploration, leasing, or development of any Federal mineral, or any combination of the foregoing.

"(d) CORPORATIONS.—(1) Whenever a corporation or other entity is subject to civil or criminal action under this section, any officer, employee, or agent of such corporation or entity who knowingly authorized, ordered, or carried out the proscribed activity shall be subject to the same action.

"(2) Whenever any officer, employee, or agent of a corporation or other entity is subject to civil or criminal action under this section for activity conducted on behalf of the corporation or other entity, the corporation or other entity shall be subject to the same action, unless it is shown that the officer, employee, or agent was acting without the knowledge or consent of the corporation or other entity.

"(e) REMEDIES, FINES, AND IMPRISONMENT.—The remedies, penalties, fines, and imprisonment prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies, penalties, fines, and imprisonment prescribed in this section shall be in addition to any other remedies, penalties, fines, and imprisonment afforded by any other law or regulation.

"(f) STATE CIVIL ACTIONS.—(1) A State may commence a civil action under subsection (c) of this section against any person conducting activity within the State in violation of this section. Civil actions brought by a State shall only be brought in the United States district court for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order appropriate remedies and penalties as described in subsection (c) of this section.

"(2) A State shall notify the Attorney General of the United States of any civil action filed by the State under this subsection within 30 days of filing of the action. The Attorney General of the United States shall notify a State of any civil action arising from activity conducted within that State filed by the Attorney General under this subsection within 30 days of filing of the action.

"(3) Any civil penalties recovered by a State under this subsection shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate. If a civil action is jointly brought by the Attorney General and a State, by more than one State or by the Attorney General and more than one State, any civil penalties recovered as a result of the joint action shall be shared by the parties bringing the action in the manner determined by the court rendering judgment in such action.

"(4) If a State has commenced a civil action against a person conducting activity within the State in violation of this section, the Attorney General may join in such action but may not institute a separate action arising from the same activity under this section. If the Attorney General has commenced a civil action against a person conducting activity within a State in violation of this section, that State may join in such action but may not institute a separate action arising from the same activity under this section.

"(5) Nothing in this section shall deprive a State of jurisdiction to enforce its own civil and criminal laws against any person who may also be subject to civil and criminal action under this section.".

SEC. 5109. PAYMENTS TO STATES.

Section 35 of the Act of February 25, 1920 (30 U.S.C. 191) is amended by adding the following at the end thereof: "In determining the amount of payments to States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.".

SEC. 5110. REPORT.

The Secretary shall submit annually for 5 years after enactment of this subtitle to the Congress a report containing appropriate information to facilitate congressional monitoring of this subtitle. Such report shall include, but not be limited to—

(1) the number of acres leased, and the number of leases issued, competitively and noncompetitively;

(2) the amount of revenue received from bonus bids, filing fees, rentals, and royalties;

(3) the amount of production from competitive and noncompetitive leases; and

(4) such other data and information as will facilitate—

(A) an assessment of the onshore oil and gas leasing system, and

(B) a comparison of the system as revised by this subtitle with the system in operation prior to the enactment of this subtitle.

SEC. 5111. LAND USE STUDY.

The National Academy of Sciences and the Comptroller General of the United States shall conduct a study of the manner in which oil and gas resources are considered in the land use plans developed by the Secretary of the Interior in accordance with provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) and the Secretary of Agriculture in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476), as amended by the National Forest Management Act of 1976 (90 Stat. 2949), and recommend any improvements that may be necessary to ensure that—

(1) potential oil and gas resources are adequately addressed in planning documents;

(2) the social, economic, and environmental consequences of exploration and development of oil and gas resources are determined; and

(3) any stipulations to be applied to oil and gas leases are clearly identified.

SEC. 5112. LANDS NOT SUBJECT TO OIL AND GAS LEASING.

The Act of February 25, 1920, is amended by adding the following at the end thereof:

"SEC. 43. LANDS NOT SUBJECT TO OIL AND GAS LEASING.

"(a) PROHIBITION.—The Secretary shall not issue any oil and gas lease under this Act on any of the following Federal lands:

"(1) Lands recommended for wilderness allocation by the surface managing agency.

"(2) Lands within Bureau of Land Management wilderness study areas.

"(3) Lands designated by Congress as wilderness study areas, except where oil and gas leasing is specifically allowed to continue by the statute designating the study area.

"(4) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or have been released to uses other than wilderness by an act of Congress.

"(b) EXPLORATION.—In the case of any area of National Forest or public lands subject to this section, nothing in this section shall affect any authority of the Secretary of the Interior (or for National Forest Lands reserved from the public domain, the Secretary of Agriculture) to issue permits for exploration for oil and gas by means not requiring construction of roads or improvement of existing roads if such activity is conducted in a manner compatible with the preservation of the wilderness environment.".

SEC. 5113. SHORT TITLE.

The Act of February 25, 1920, is amended by inserting after section 43 the following new section:

"SEC. 44. SHORT TITLE.

"This Act may be cited as the 'Mineral Leasing Act'.".

Subtitle C—Land and Water Conservation Fund and Tongass Timber Supply Fund

SEC. 5201. LAND AND WATER CONSERVATION FUND ACT AMENDMENTS.

(a) ADMISSION FEES.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)) is amended as follows:

(1) Paragraph (1) is amended by striking out "$10" and inserting in lieu thereof "$25" in the first sentence.

(2) Paragraph (1) is further amended by striking out "(1)" and inserting in lieu thereof "(1)(A)" and adding the following new subparagraph at the end thereof:

"(B) For admission into a specific designated unit of the National Park System, or into several specific units located in a particular geographic area, the Secretary is authorized to make available an annual admission permit for a reasonable fee. The fee shall not exceed $15 regardless of how many units of the park system are covered. The permit shall convey the privileges of, and shall be subject to the same terms and conditions as, the Golden Eagle Passport, except that it shall be valid only for admission into the specific unit or units of the National Park System indicated at the time of purchase.".

(3) Paragraph (2) is amended by adding the following sentences at the end thereof: "The fee for a single-visit permit at any designated area applicable to those persons entering by private, noncommercial vehicle shall be no more than $5 per vehicle. The single-visit permit shall admit the permittee and all persons accompanying him in a single vehicle. The fee for a single-visit permit at any designated area applicable to those persons entering by any means other than a private noncommercial vehicle shall be no more than $3 per person. Except as otherwise provided in this subsection, the maximum fee amounts set forth in this paragraph shall apply to all designated areas.".

(4) Paragraph (3) is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this Act, no admission fee may be charged at any unit of the National Park System which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations.".

(5) Add the following new paragraphs:

"(6)(A) No later than 60 days after the date of enactment of this paragraph, the Secretary of the Interior shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report on the entrance fees proposed to be charged at units of the National Park System. The report shall include a list of units of the National Park System and the entrance fee proposed to be charged at each unit. The Secretary of the Interior shall include in the report an explanation of the guidelines used in applying the criteria in subsection (d).

"(B) Following submittal of the report to the respective committees, any proposed changes to matters covered in the report, including the addition or deletion of park units or the increase or decrease of fee levels at park units shall not take effect until 60 days after notice of the proposed change has been submitted to the committees.

"(7) No admission fee may be charged at any unit of the National Park System for admission of any person 16 years of age or less.

"(8) No admission fee may be charged at any unit of the National Park System for admission of organized school groups or outings conducted for educational purposes by schools or other bona fide educational institutions.

"(9) No admission fee may be charged at the following units of the National Park System: U.S.S. Arizona Memorial, Independence National Historical Park, any unit of the National Park System within the District of Columbia, Arlington House—Robert E. Lee National Memorial, San Juan National Historic Site, and Canaveral National Seashore.

"(10) For each unit of the National Park System where an admission fee is collected, the Director shall annually designate at least one day during periods of high visitation as a 'Fee-Free Day' when no admission fee shall be charged.

"(11) In the case of the following parks, the fee for a single-visit permit applicable to those persons entering by private, noncommercial vehicle (the permittee and all persons accompanying him in a single vehicle) shall be no more than $10 per vehicle and the fee for a single-visit permit applicable to persons entering by any means other than a private noncommercial vehicle shall be no more than $5 per person: Yellowstone National Park and Grand Teton National Park and after the end of fiscal year 1990, Grand Canyon National Park. In the case of Yellowstone and Grand Teton, a single-visit fee collected at one unit shall also admit the vehicle or person who paid such fee for a single-visit to the other unit.

"(12) Notwithstanding section 203 of the Alaska National Interest Lands Conservation Act, the Secretary may charge an admission fee under this section at Denali National Park and Preserve in Alaska.".

(b) VISITOR RESERVATION SERVICES.—Section 4(f) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(f)) is amended to read as follows:

"(f) The head of any Federal agency, under such terms and conditions as he deems appropriate, may contract with any public or private entity to provide visitor reservation services. Any such contract may provide that the contractor shall be permitted to deduct a commission to be fixed by the agency head from the amount charged the public for providing such services and to remit the net proceeds therefrom to the contracting agency.".

(c) SPECIAL PROVISIONS.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a) is amended by adding the following new subsections at the end thereof:

"(i)(1) Except in the case of fees collected by the United States Fish and Wildlife Service or the Tennessee Valley Authority, all receipts from fees collected pursuant to this section by any Federal agency (or by any public or private entity under contract with a Federal agency) shall be covered into a special account for that agency established in the Treasury of the United States. Fees collected by the Secretary of Agriculture pursuant to this subsection shall continue to be available for the purposes of distribution to States and counties in accordance with applicable law.

"(2) Amounts covered into the special account for each agency during each fiscal year shall, after the end of such fiscal year, be available for appropriation solely for the purposes and in the manner provided in this subsection. No funds shall be transferred from fee receipts made available under this Act to each unit of the national park system: *Provided, however,* That in making appropriations, funds derived from such fees may be used for any purpose authorized therein. Funds credited to the special account shall remain available until expended.

"(3) For agencies other than the National Park Service, such funds shall be made available for resource protection, research, interpretation, and maintenance activities related to resource protection in areas managed by that agency at which outdoor recreation is available. To the extent feasible, such funds should be used for purposes (as provided for in this paragraph) which are directly related to the activities which generated the funds, including but not limited to water-based recreational activities and camping.

"(4) Amounts covered into the special account for the National Park Service shall be allocated among park system units in accordance with subsection (j) for obligation or expenditure by the Director of the National Park Service for the following purposes:

"(A) In the case of receipts from the collection of admission fees: for resource protection, research, and interpretation at units of the National Park System.

"(B) In the case of receipts from the collection of user fees: for resource protection, research, interpretation, and maintenance activities related to resource protection at units of the National Park System.

"(j)(1) 10 percent of the funds made available to the Director of the National Park Service under subsection (i) in each fiscal year shall be allocated among units of the National Park System on the basis of need in a manner to be determined by the Director.

"(2) 40 percent of the funds made available to the Director of the National Park Service under subsection (i) in each fiscal year shall be allocated among units of the National Park System in accordance with paragraph (3) of this subsection and 50 percent shall be allocated in accordance with paragraph (4) of this subsection.

"(3) The amount allocated to each unit under this paragraph for each fiscal year shall be a fraction of the total allocation to all units under this paragraph. The fraction for each unit shall be determined by dividing the operating expenses at that unit during the prior fiscal year by the total operating expenses at all units during the prior fiscal year.

"(4) The amount allocated to each unit under this paragraph for each fiscal year shall be a fraction of the total allocation to all units under this paragraph. The fraction for each unit shall be determined by dividing the user fees and admission fees collected under this section at that unit during the prior fiscal year by the total of user fees and admission fees collected under this section at all units during the prior fiscal year.

"(5) Amounts allocated under this subsection to any unit for any fiscal year and not expended in that fiscal year shall remain available for expenditure at that unit until expended.

"(k) When authorized by the head of the collecting agency, volunteers at designated areas may sell permits and collect fees authorized or established pursuant to this section. The head of such agency shall ensure that such volunteers have adequate training regarding—

"(1) the sale of permits and the collection of fees,

"(2) the purposes and resources of the areas in which they are assigned, and

"(3) the provision of assistance and information to visitors to the designated area.

The Secretary shall require a surety bond for any such volunteer performing services

under this subsection. Funds available to the collecting agency may be used to cover the cost of any such surety bond. The head of the collecting agency may enter into arrangements with qualified public or private entities pursuant to which such entities may sell (without cost to the United States) annual admission permits (including Golden Eagle Passports) at any appropriate location. Such arrangements shall require each such entity to reimburse the United States for the full amount to be received from the sale of such permits at or before the agency delivers the permits to such entity for sale.

"(l)(1) Where the National Park Service provides transportation to view all or a portion of any unit of the National Park System, the Director may impose a charge for such service in lieu of an admission fee under this section. The charge imposed under this paragraph shall not exceed the maximum admission fee under subsection (a).

"(2) Notwithstanding any other provision of law, half of the charges imposed under paragraph (1) shall be retained by the unit of the National Park System at which the service was provided. The remainder shall be covered in the special account referred to in subsection (i) in the same manner as receipts from fees collected pursuant to this section. Fifty percent of the amount retained shall be expended only for maintenance of transportation systems at the unit where the charge was imposed. The remaining 50 percent of the retained amount shall be expended only for activities related to resource protection at such units.

"(m) Where the primary public access to a unit of the National Park System is provided by a concessioner, the Secretary may charge an admission fee at such units only to the extent that the total of the fee charged by the concessioner for access to the unit and the admission fee does not exceed the maximum amount of the admission fee which could otherwise be imposed under subsection (a).".

(d) REPEALS.—(1) Title I of Public Law 96-514 is amended by striking out the following provisions which appear under the heading "Land and Water Conservation Fund": "Notwithstanding the provisions of Public Law 90-401, revenues from recreation fee collections by Federal agencies shall hereafter be paid into the Land and Water Conservation Fund, to be available for appropriation for any or all purposes authorized by the Land and Water Conservation Fund Act of 1965, as amended, without regard to the source of such revenues.".

(2) Section 402 of the Act of October 12, 1979 (93 Stat. 664), is hereby repealed.

(3) The seventh paragraph of title I of the Energy and Water Development Appropriation Act, 1982, entitled "Special Recreation Use Fees" is hereby repealed.

(e) STUDY.—(1) The Secretary of the Interior shall assess the extent to which traffic congestion and overcrowding occurs at certain park system units during times of seasonally high usage and shall conduct a study of the following—

(A) the feasibility of reducing vehicular traffic within national park system units through fee reductions for visitors traveling by bus and through other means which could shift visitation from automobiles to buses; and

(B) the feasibility of encouraging more even seasonal distribution of visitation.

(2) The study shall include a pilot project to be carried out in Yosemite National Park. For purposes of such pilot project, the Secretary may reduce the fees for admission of various classes or categories of visitors to Yosemite National Park and may reduce the admission fees imposed at the park during seasons with low visitation. A report containing the results of the study shall be transmitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within 3 years after the enactment of this Act.

(f) EXTENSION OF LAND AND WATER CONSERVATION FUND.—(1) Section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 and following) is amended as follows:

(A) In the matter preceding subsection (a) strike "1989" and substitute "2015".

(B) In subsection (c)(1) strike "1989" and substitute "2015".

(2) The last sentence of section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 and following) is amended to read as follows: "Moneys made available for obligation or expenditure from the fund or from the special account established under section 4(i)(1) may be obligated or expended only as provided in this Act.".

(g) RELATIONSHIP TO FISCAL YEAR 1988 APPROPRIATIONS.—For purposes of legislation providing appropriations for the fiscal year 1988 to the Department of the Interior, the provisions of this section shall be treated as "permanent statutory language" establishing entrance fees for the National Park Service.

SEC. 5202. TONGASS TIMBER SUPPLY FUND.

From the period beginning on October 1, 1987, and extending until September 30, 1989, the provisions of section 705(a) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 539(d)) shall not be effective. In lieu thereof, the following provision shall apply:

"There is hereby authorized to be appropriated the sum of at least $40,000,000 annually (or such sums as the Secretary of Agriculture determines necessary) to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of 4,500,000,000 foot board measure per decade.".

Subtitle D—Reclamation

SEC. 5301. SALE OF BUREAU OF RECLAMATION LOANS.

(a) SALE.—The Secretary of the Interior (hereinafter in this section referred to as the "Secretary"), under such terms as the Secretary shall prescribe, shall sell or otherwise dispose of loans made pursuant to the Distribution System Loans Act (43 U.S.C. 421a-421d), the Small Reclamation Projects Act (43 U.S.C. 422a-422l), and the Rehabilitation and Betterment Act (43 U.S.C. 504-505) in such amounts as to realize net proceeds to the Federal Government of not less than $130,000,000 in the fiscal year ending September 30, 1988. In the conduct of such sales, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the borrowers under the contracts executed to provide for repayment of such loans.

(b) SAVINGS PROVISIONS.—Nothing in this section, including the prepayment or other disposition of any loan or loans, shall—

(1) except to the extent that prepayment may have been authorized heretofore, relieve the borrower from the application of the provisions of Federal Reclamation law (Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto, including the Reclamation Reform Act of 1982), including acreage limitations, to the extent such provisions would apply absent such prepayment, or

(2) authorize the transfer of title to any federally owned facilities funded by the loans specified in subsection (a) of this section without a specific Act of Congress.

(c) FEES AND EXPENSES OF PROGRAM.—Proceeds from the conduct of the program authorized by this section shall be first used to pay the fees and expenses of such program and the net proceeds shall be deposited in the Treasury of the United States as miscellaneous receipts.

(d) TERMINATION.—The authority granted by this section to sell or otherwise dispose of loans shall terminate on December 31, 1988.

SEC. 5302. RECLAMATION REFORM ACT AMENDMENTS.

(a) AUDIT.—Section 224 of the Reclamation Reform Act of 1982 (Public Law 97-293) is amended by adding the following new subsections after subsection (f):

"(g) In addition to any other audit or compliance activities which may otherwise be undertaken, the Secretary of the Interior, or his designee, shall conduct a thorough audit of the compliance with the reclamation law of the United States, specifically including this Act, by legal entities and individuals subject to such law. At a minimum, the Secretary shall complete audits of those legal entities and individuals whose landholdings or operations exceed 960 acres within 3 years. The Secretary shall submit an annual written report to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs. Such report shall summarize the legal entities and individuals audited, the results of such audits, and the actions taken by the Secretary to correct any instances of noncompliance with the reclamation law.

"(h) The provisions of section 205(c) are and have been applicable to all recordable contracts executed prior to October 12, 1982, and any decision, rule, or regulation promulgated by the Department of the Interior to the contrary is hereby revoked: *Provided*, That notwithstanding the provisions of subsection (i), the Secretary shall not seek reimbursement for any amounts due under this subsection or section 205(c) which was due prior to the date of enactment of this subsection.

"(i) When the Secretary finds that any individual or legal entity subject to reclamation law, including this Act, has not paid the required amount for irrigation water delivered to a landholding pursuant to reclamation law, including this Act, he shall collect the amount of any underpayment with interest accruing from the date the required payment was due until paid. The interest rate shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing marketable issues sold by the Treasury during the period of underpayment.".

(b) REVOCABLE TRUSTS.—Section 214 of the Reclamation Reform Act of 1982 (Public Law 97-293) is amended by inserting "(a)" after "214" and by adding the following new subsection at the end thereof:

"(b) Lands placed in a revocable trust shall be attributable to the grantor if—

"(1) the trust is revocable at the discretion of the grantor and revocation results in the title to such lands reverting either directly or indirectly to the grantor; or

"(2) the trust is revoked or terminated by its terms upon the expiration of a specified period of time and the revocation or termination results in the title to such lands reverting either directly or indirectly to the grantor.".

Subtitle E—Panama Canal

SEC. 5401. REFERENCE TO THE PANAMA CANAL ACT OF 1979.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Panama Canal Act of 1979 (22 U.S.C. 3601 and following).

PART 1—PANAMA CANAL REAUTHORIZATION

SEC. 5411. OPERATING EXPENSES.

There is authorized to be appropriated from the Panama Canal Commission Fund to the Panama Canal Commission (hereafter in this part referred to as the "Commission") for the fiscal year beginning October 1, 1987, not to exceed $467,050,000, for necessary expenses of the Commission incurred under the Panama Canal Act of 1979 (22 U.S.C. 3601 and following), including expenses for—

(1) the hire of passenger motor vehicles and aircraft;

(2) the purchase of passenger motor vehicles as may be necessary for fiscal year 1988, the number and price of which shall not exceed the amount provided in appropriation Acts; except that large heavy-duty passenger sedans used to transport Commission employees across the Isthmus of Panama may be purchased for fiscal year 1988 without regard to price limitations set forth in applicable regulations of any department or agency of the United States;

(3) official receptions and representation expenses, except that not more than $43,000 may be made available for such expenses, of which (A) not more than $10,000 may be made available for such expenses of the Supervisory Board of the Commission, (B) not more than $5,000 may be made available for such expenses of the Secretary of the Commission, and (C) not more than $28,000 may be made available for such expenses of the Administrator of the Commission;

(4) the procurement of expert and consultant services as provided in section 3109 of title 5, United States Code;

(5) a residence for the Administrator of the Commission;

(6) uniforms, or allowances therefor, as authorized by section 5901 and 5902 of title 5, United States Code;

(7) disbursements by the Administrator of the Commission for employee recreation and community projects; and

(8) the operation of guide services.

SEC. 5412. CAPITAL OUTLAY.

Of any funds appropriated pursuant to section 5411, not more than $37,000,000 (which is authorized to remain available until expended) may be made available for the acquisition, construction, replacement and improvements of facilities, structures, and equipment required by the Commission.

SEC. 5413. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In addition to the amount authorized to be appropriated by section 5411, there are authorized to be appropriated to the Commission for the fiscal year 1988 such amounts as may be necessary for—

(1) increases in salary, pay, retirement, and other employee benefits provided by law;

(2) covering payments to Panama under paragraph 4(a) of Article XIII of the Panama Canal Treaty of 1977, as provided by section 1341(a) of the Panama Canal Act of 1979 (22 U.S.C. 3751(a)); and

(3) increased costs for fuel.

SEC. 5414. INSURANCE.

Section 1419 (22 U.S.C. 3779) is amended by inserting "or other unpredictable events" after "marine accidents".

SEC. 5415. AUTHORITY TO LEASE OFFICE SPACE.

Notwithstanding section 210 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490), the Commission is authorized to negotiate directly and enter into contracts for the lease of, and for improvements to, real property in the United States for use by the Commission as office space, on such terms as the Commission considers to be in the interest of the United States, and to make direct payments therefor.

SEC. 5416. COMPENSATION OF BOARD MEMBERS.

Section 1102(b) (22 U.S.C. 3612(b)) is amended by inserting before the period at the end thereof the following: "or, as authorized by the Chairman of the Board, while on [78] official Panama Canal Commission business".

SEC. 5417. SETTLEMENT OF CLAIMS.

(a) SETTLEMENT OF CLAIMS.—Section 1401(b) (22 U.S.C. 3761(b)) is amended to read as follows:

"(b) The Commission may pay not more than $50,000 on any claim described in subsection (a).".

(b) INJURIES TO VESSELS WITHOUT PILOTS.—Section 1411(b)(1) (22 U.S.C. 3771(b)(1)) is amended by striking out "adjust and pay" and all that follows through "$50,000" and inserting in lieu thereof "pay not more than $50,000 on the claim".

SEC. 5418. REPORT TO CONGRESS.

Out of the funds authorized to be appropriated by this part, the Commission shall prepare and submit to the Congress a report on—

(1) the condition of the Panama Canal and potential adverse effects on United States shipping and commerce;

(2) the effect on canal operations of the military forces under General Noriega; and

(3) the Commission's evaluation of the effect on canal operations if the Panamanian Government continues to withhold its consent to major factors in the United States Senate's ratification of the Panama Canal Treaties.

PART 2—PANAMA CANAL REVOLVING FUND

SEC. 5421. SHORT TITLE.

This part may be referred to as the "Panama Canal Revolving Fund Act".

SEC. 5422. ESTABLISHMENT OF REVOLVING FUND.

(a) ESTABLISHMENT.—Section 1302 (22 U.S.C. 3712) is amended by striking out subsections (a) through (d) and inserting in lieu thereof the following:

"SEC. 1302. (a)(1) There is established in the Treasury of the United States a revolving fund to be known as the 'Panama Canal Revolving Fund'. The Panama Canal Revolving Fund shall, subject to subsection (c), be available to the Commission to carry out the purposes, functions, and powers authorized by this Act, including for—

"(A) the hire of passenger motor vehicles and aircraft;

"(B) uniforms or allowances therefor, as authorized by sections 5901 and 5902 of title 5, United States Code;

"(C) official receptions and representation expenses of the Board, the Secretary of the Commission, and the Administrator;

"(D) the operation of guide services;

"(E) a residence for the Administrator;

"(F) disbursements by the Administrator for employee and community projects; and

"(G) the procurement of expert and consultant services as provided in section 3109 of title 5, United States Code.

"(2) On the effective date of the Panama Canal Revolving Fund Act—

"(A) the Panama Canal Commission Fund shall be terminated and the unappropriated balance, including undeposited receipts as of the close of business on the day before the effective date of the Panama Canal Revolving Fund Act, shall be transferred to the Panama Canal Revolving Fund;

"(B) the unexpended balance of appropriations to the Commission, as of the close of business on the day before the effective date of the Panama Canal Revolving Fund Act, shall be transferred to the Panama Canal Revolving Fund, and such amounts, including amounts appropriated for capital expenditures, shall remain available until expended;

"(C) the assets and liabilities recorded before such effective date under the 'Panama Canal Commission Fund' shall be recorded under the Panama Canal Revolving Fund; and

"(D) the Panama Canal Emergency Fund shall be terminated and the remaining balance shall be transferred to the Panama Canal Revolving Fund.

"(b) Upon completion of the transfers of funds under subsection (a)—

"(1) amounts attributable to interest on the investment of the United States in the Panama Canal which accrued before January 1, 1986, shall be transferred from the Panama Canal Revolving Fund to the general fund of the Treasury; and

"(2) such amounts as were appropriated to the Commission in the fiscal year which ended September 30, 1980, and for which the Commission has not reimbursed the general fund of the Treasury, shall be transferred to the general fund of the Treasury.

"(c)(1) There shall be deposited in the Panama Canal Revolving Fund, on a continuing basis, toll receipts and all other receipts of the Commission. Except as provided in section 1303 and subject to paragraph (2), no funds may be obligated or expended by the Commission in any fiscal year unless such obligation or expenditure has been specifically authorized by law.

"(2) No funds may be obligated or expended by the Commission in any fiscal year for administrative expenses except to the extent or in such amounts as are provided in appropriations Acts.

"(3) No funds may be authorized for the use of the Commission, or obligated or expended by the Commission in any fiscal year in excess of—

"(A) the amount of revenues deposited in the Panama Canal Revolving Fund during such fiscal year, plus

"(B) the amount of revenues deposited in the Panama Canal Revolving Fund before such fiscal year and remaining unexpended at the beginning of such fiscal year.

Not later than 30 days after the end of each fiscal year, the Secretary of the Treasury shall report to the Congress the amount of

[78] Copy read "an".

revenues deposited in the Panama Canal Revolving Fund during such fiscal year.

"(d) With the approval of the Secretary of the Treasury, the Commission may deposit amounts in the Panama Canal Revolving Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Commission and the Secretary may agree.

"(e) The Committee on Appropriations of each House of Congress shall review the annual budget of the Commission, including operations and capital expenditures.".

(b) CONFORMING AMENDMENTS.—(1) The section heading for section 1302 is amended to read as follows:

"PANAMA CANAL REVOLVING FUND".

(2) The item relating to section 1302 in the table of contents of the Panama Canal Act of 1979 is amended to read as follows:

"1302. Panama Canal Revolving Fund.".

SEC. 5423. EMERGENCY AUTHORITY.

(a) GRANT OF AUTHORITY.—Section 1303 (22 U.S.C. 3713) is amended to read as follows:

"SEC. 1303. If authorizing legislation described in section 1302(c)(1) has not been enacted for a fiscal year, then the Commission may withdraw funds from the Panama Canal Revolving Fund in order to defray emergency expenses and to ensure the continuous, efficient, and safe operation of the Panama Canal, including expenses for capital projects. The authority of this section may not be used for administrative expenses. The authority of this section may be exercised only until authorizing legislation described in section 1302(c)(1) is enacted, or for a period of 24 months after the end of the fiscal year for which such authorizing legislation was last enacted, whichever occurs first. Within 60 days after the end of any calendar quarter in which expenditures are made under this section, the Commission shall report such expenditures to the appropriate committees of the Congress.".

(b) CONFORMING AMENDMENTS.—(1) The section heading for section 1303 is amended by striking out "FUND" and inserting in lieu thereof "AUTHORITY".

(2) The item relating to section 1303 in the table of contents of the Panama Canal Act of 1979 is amended by striking out "fund" and inserting in lieu thereof "authority".

SEC. 5424. BORROWING AUTHORITY.

(a) GRANT OF AUTHORITY.—Subchapter I of chapter 3 of title I (22 U.S.C. 3711 and following) is amended by adding at the end thereof the following new section:

"BORROWING AUTHORITY

"SEC. 1304. (a) The Panama Canal Commission may borrow from the Treasury, for any of the purposes of the Commission, not more than $100,000,000 outstanding at any time. For this purpose, the Commission may issue to the Secretary of the Treasury its notes or other obligations—

"(1) which shall have maturities (of not later than December 31, 1999) agreed upon by the Commission and the Secretary of the Treasury, and

"(2) which may be redeemable at the option of the Commission before maturity.

"(b) Amounts borrowed under this section shall not be available for payments to Panama under Article XIII of the Panama Canal Treaty of 1977.

"(c) Amounts borrowed under this section shall increase the investment of the United States in the Panama Canal, and repayment of such amounts shall decrease such investment.

"(d) The Commission shall report to the Congress and to the Office of Management and Budget on each exercise of borrowing authority under this section.".

(b) CONFORMING AMENDMENT.—The table of contents of the Panama Canal Act of 1979 is amended by inserting after the item relating to section 1303 the following:

"1304. Borrowing authority.".

SEC. 5425. CALCULATION OF INTEREST.

(a) CALCULATION OF INTEREST.—Section 1603 (22 U.S.C. 3793) is amended—

(1) in subsection (b)(1)(A), by striking out "appropriations to the Commission made on or after the effective date of this Act" and inserting in lieu thereof "the Panama Canal Revolving Fund,";

(2) in subsection (b)(2)(A), by striking out "covered into the Panama Canal Commission Fund pursuant to section 1302 of this Act" and inserting in lieu thereof "deposited in the Panama Canal Revolving Fund"; and

(3) by adding at the end thereof the following new subsection:

"(d) The Panama Canal Commission shall pay to the Treasury of the United States interest on the investment of the United States, as determined under this section. Such interest shall be deposited in the general fund of the Treasury.".

SEC. 5426. PAYMENTS TO THE REPUBLIC OF PANAMA.

The second sentence of section 1341(e) (22 U.S.C. 3751(e)) is amended—

(1) by striking out "and" before "(6)"; and

(2) by inserting before the period ", and (7) amounts programmed to meet working capital requirements".

SEC. 5427. BASIS OF TOLLS.

Section 1602(b) (22 U.S.C 3792(b)) is amended by inserting "working capital," after "depreciation,".

SEC. 5428. TECHNICAL AND CONFORMING AMENDMENTS.

(a) APPLIANCES FOR EMPLOYEES INJURED BEFORE SEPTEMBER 7, 1916.—Section 1246 (22 U.S.C. 3683) is amended by striking out "appropriated" and inserting in lieu thereof "available".

(b) DISASTER RELIEF.—Section 1343 (22 U.S.C. 3753) is amended by striking out "available funds appropriated" and inserting in lieu thereof "funds available".

(c) CONGRESSIONAL RESTRAINTS ON PROPERTY TRANSFERS AND TAX EXPENDITURES.—Section 1344(b)(4) (22 U.S.C. 3754(b)(4)) is amended—

(1) by striking out "appropriated to or" and inserting in lieu thereof "available"; and

(2) by striking out "Panama Canal Commission Fund" and inserting in lieu thereof "Panama Canal Revolving Fund".

(d) CIVIL SERVICE RETIREMENT AND DISABILITY FUND.—Section 8348(i)(2) of title 5, United States Code, is amended by striking out "The Secretary of the Treasury shall pay to the Fund from appropriations" and inserting in lieu thereof "The Panama Canal Commission shall pay to the Fund from funds available to it".

(e) CANAL ZONE GOVERNMENT FUNDS.—Section 1301 (22 U.S.C. 3711) is amended—

(1) by amending the second sentence to read as follows: "The Commission may, to the extent of funds available to it, pay claims or make payments chargeable to such accounts, upon proper audit of such claims or payments."; and

(2) by striking out the third sentence.

SEC. 5429. EFFECTIVE DATE.

This part and the amendments made by this part take effect on January 1, 1988.

Subtitle F—Abandoned Mine Funds in Wyoming

SEC. 5501. ALLOCATION OF ABANDONED MINE RECLAMATION FUNDS IN WYOMING.

Notwithstanding any other provision of law, the State of Wyoming may, subject to a plan approved by the Governor, expend not more than $2,000,000 from its allocation of fiscal year 1987 appropriated funds under section 402(g) of Public Law 95-87 for direct assistance to citizens evacuated from their homes in the Rawhide and Horizon Subdivisions in Campbell County, Wyoming, due to hazards from methane and hydrogen sulfide gases.

Subtitle G—Nuclear Regulatory Commission User Fees

SEC. 5601. USER FEES.

Section 7601(b)(1)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272; 100 Stat. 147) is amended by inserting "; except that for fiscal years 1988 and 1989, such percentage shall be increased an additional 6 percent of such costs plus all other assessments made by the Nuclear Regulatory Commission pursuant to House Joint Resolution 395, 100th Congress, 1st Session, as enacted; but in no event shall such percentage be less than a total of 45 percent of such costs in each such fiscal year" after "with respect to such fiscal year".

TITLE VI—CIVIL SERVICE AND POSTAL SERVICE PROGRAMS

SEC. 6001. PARTIAL DEFERRED PAYMENT OF LUMP-SUM CREDIT FOR CERTAIN INDIVIDUALS ELECTING ALTERNATIVE FORMS OF ANNUITIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (c), any lump-sum credit payable to an employee or Member pursuant to the election of an alternative form of annuity by such employee or Member under section 8343a or section 8420a of title 5, United States Code, shall be paid in accordance with the schedule under subsection (b) (instead of the schedule which would otherwise apply), if the commencement date of the annuity payable to such employee or Member occurs after January 3, 1988, and before October 1, 1989.

(b) SCHEDULE OF PAYMENTS.—The schedule of payment of any lump-sum credit subject to this section is as follows:

(1) 60 percent of the lump-sum credit shall be payable on the date on which, but for the enactment of this section, the full amount of the lump-sum credit would otherwise be payable.

(2) The remainder of the lump-sum credit shall be payable on the date which occurs 12 months after the date described in paragraph (1).

An amount payable in accordance with paragraph (2) shall be payable with interest, computed using the rate under section 8334(e)(3) of title 5, United States Code.

(c) EXCEPTIONS.—The Office of Personnel Management shall prescribe regulations under which this section shall not apply—

(1) in the case of any individual who is separated from Government service involuntarily, other than for cause on charges of misconduct or delinquency; and

(2) in the case of any individual as to whom the application of this section would be against equity and good conscience, due to a life-threatening affliction or other critical medical condition affecting such individual.

(d) ANNUITY BENEFITS NOT AFFECTED.—Nothing in this section shall affect the com-

mencement date, the amount, or any other aspect of any annuity benefits payable under section 8343a or section 8420a of title 5, United States Code.

(e) DEFINITIONS.—For purposes of this section, the terms "lump-sum credit", "employee", and "Member" each has the meaning given such term by section 8331 or section 8401 of title 5, United States Code, as appropriate.

SEC. 6002. CONTRIBUTIONS BY THE UNITED STATES POSTAL SERVICE TO THE CIVIL SERVICE RETIREMENT AND DISABILITY FUND.

(a) ESTABLISHMENT OF POSTAL SERVICE ESCROW FUND.—There is established as a separate account in the United States Treasury, the "Postal Service Escrow Fund". Such Fund shall—

(1) have such amounts described under subsection (b)(2) deposited no later than October 31, 1988;

(2) not be available for expenditures of any amounts therein during the existence of such Fund; and

(3) cease to exist on October 1, 1989, and on such date all amounts deposited in such Fund under subsection (b)(2) shall be deposited in the Postal Service Fund established under section 2003 of title 39, United States Code.

(b) DEPOSIT OF CERTAIN SAVINGS IN CERTAIN FUNDS.—

(1) FISCAL YEAR 1988.—From all funds available to the United States Postal Service in fiscal year 1988, the Postal Service shall deposit into the Civil Service Retirement and Disability Fund established under section 8348 of title 5, United States Code, an amount of $350,000,000 in fiscal year 1988, in addition to any amount deposited pursuant to subsection (h) of such section.

(2) FISCAL YEAR 1989.—From all funds available to the United States Postal Service in fiscal year 1989, the Postal Service shall deposit into the Postal Service Escrow Fund an amount of $465,000,000 no later than October 31, 1988.

(c) CAPITAL LIMITATIONS FOR FISCAL YEARS 1988 AND 1989.—

(1) The United States Postal Service may not make any commitment or obligation to expend any monies deposited in the Postal Service Fund established under section 2003 of title 39, United States Code, for the capital investment program—

(A) in excess of $625,000,000 in fiscal year 1988; and

(B) in excess of $1,995,000,000 in fiscal year 1989.

(2) CAPITAL INVESTMENT PROGRAMS.—For the purposes of paragraph (1) the term "capital investment program" shall include all investments in long-term assets and capital investment expenditures (including direct and indirect costs associated with such investments and expenditures, such as obligations through contracts).

SEC. 6003. CONTRIBUTIONS BY THE UNITED STATES POSTAL SERVICE TO THE EMPLOYEES HEALTH BENEFITS FUND.

(a) CONTRIBUTIONS FOR CERTAIN ANNUITANTS OF THE UNITED STATES POSTAL SERVICE.—As partial payment to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, for benefits of certain annuitants and survivor annuitants (no portion of the cost of which was paid by the Postal Service before the date of enactment of this section) the Postal Service shall pay into the Employee Health Benefits Fund $160,000,000 in fiscal year 1988, and $270,000,000 in fiscal year 1989 in addition to any amount deposited into such Fund pursuant to section 8906 of such title 5 in each such fiscal year.

(b) PAYMENT LIMITATIONS IN FISCAL YEARS 1988 AND 1989.—The partial payment required by subsection (a) of this section shall—

(1) be from all funds available to the United States Postal Service in each such fiscal year;

(2) be from funds representing savings to the United States Postal Service resulting from savings from the operating budget of the United States Postal Service in each such fiscal year; and

(3) be paid into such Fund in each such fiscal year, without—

(A) increasing borrowing under section 2005 of title 39, United States Code;

(B) using any budgetary resources other than budgetary resources derived from the operating budget of the United States Postal Service; or

(C) increasing postal rates under chapter 36 of title 39, United States Code,

for the purposes of financing such payment.

(c) IMPLEMENTATION PLANS, PROGRESS REPORTS, AND COMPLIANCE FOR FISCAL YEARS 1988 AND 1989.—

(1) IMPLEMENTATION.—No later than March 1, 1988 for fiscal year 1988, and October 1, 1988 for fiscal year 1989, the United States Postal Service shall—

(A) formulate an implementation plan specifically enumerating the methods by which the Postal Service shall make the payments required under subsection (b) and fulfill the conditions required under paragraphs (1), (2), and (3) of such subsection; and

(B) submit such plan to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives.

(2) INTERIM REPORT.—No later than July 15, 1988 for fiscal year 1988, and March 1, 1989 for fiscal year 1989, the United States Postal Service shall submit an interim report to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives on the status of meeting the guidelines and goals of the plans submitted under paragraph (1)(B), and any adjustments necessary to meet the requirements under the provisions of subsection (b) of this section for each such fiscal year.

(3) PRELIMINARY AUDIT AND REPORT BY THE GENERAL ACCOUNTING OFFICE.—No later than September 1, 1988 for fiscal year 1988, and September 1, 1989 for fiscal year 1989, the General Accounting Office shall—

(A) conduct an audit of the plans and adjustments to the plans submitted by the United States Postal Service under paragraphs (1) and (2) of this subsection and determine the extent of compliance of the Postal Service with such plans and the requirements of subsection (b) of this section; and

(B) submit a report of such audit and determinations to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives.

[80] (4) DETERMINATION OF COMPLIANCE.—

On October 31, 1988 for fiscal year 1988, and on October 31, 1989 for fiscal year 1989, the General Accounting Office shall—

(A) make a final audit and determination of whether the United States Postal Service is in compliance with the requirements of subsection (b) of this section;

(B) submit a final report for each such fiscal year on such compliance to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives; and

(C) include in each final report submitted under subparagraph (B), such recommendations (if applicable) for any actions to enforce compliance with the provisions of subsection (b) of this section.

(5) COMPLIANCE IN FISCAL YEARS 1988 AND 1989.—Based on the determination of compliance required by subsection (c)(4) of this section for fiscal years 1988 and 1989, the Congress shall (after receiving the recommendation of the General Accounting Office under paragraph (4)(C)) determine appropriate action, if necessary, to enforce compliance with any payment limitation under subsection (b) of this section.

SEC. 6004. TECHNICAL CLARIFICATION.

For purposes of section 202 of the Balanced Budget and Emergency Deficit Reaffirmation Act of 1987, the amendments made by this title shall be considered an exception under subsection (b) of such section.

TITLE VII—VETERANS' PROGRAMS

SEC. 7001. SALES OF VENDEE LOANS WITH OR WITHOUT RECOURSE.

Section 1816(d) of title 38, United States Code, is amended—

(1) by redesignating paragraph (3) as subparagraph (C);

(2) by inserting after paragraph (2) the following:

"(3)(A) Before October 1, 1989, notes evidencing such loans may be sold with or without recourse as determined by the Administrator, with respect to specific proposed sales of such notes, to be in the best interest of the effective functioning of the loan guaranty program under this chapter, taking into consideration the comparative cost-effectiveness of each type of sale. In comparing the cost-effectiveness of conducting a proposed sale of such notes with recourse or without recourse, the Administrator shall, based on available estimates regarding likely market conditions and other pertinent factors as of the time of the sale, determine and consider—

"(i) the average amount by which the selling price for such notes sold with recourse would exceed the selling price for such notes if sold without recourse; and

"(ii) the total cost of selling such notes with recourse, including—

"(I) any estimated discount or premium;

"(II) the projected cost, based on Veterans' Administration experience with the sale of notes evidencing vendee loans with recourse and the quality of the loans evidenced by the notes to be sold, of repurchasing defaulted notes;

"(III) the total servicing cost with respect to repurchased notes, including the costs of taxes and insurance, collecting monthly payments, servicing delinquent accounts, and terminating insoluble loans;

"(IV) the costs of managing and disposing of properties acquired as the result of defaults on such notes;

"(V) the loss or gain on resale of such properties; and

"(VI) any other cost determined appropriate by the Administrator.

"(B) Not later than 60 days after making any sale described in subparagraph (A) of this paragraph occurring before October 1, 1989, the Administrator shall submit to the

[80] Paragraphs "(4)", "(A)", "(B)", and "(C)", indented wrong.

Committees on Veterans' Affairs of the Senate and the House of Representatives a report describing—

"(i) the application of the provisions of such subparagraph, and each of the determinations required thereunder, in the case of such sale;

"(ii) the results of the sale in comparison to the anticipated results; and

"(iii) actions taken by the Administrator to facilitate the marketing of the notes involved."; and

(3) in subparagraph (C), as redesignated by clause (1) of this section—

(A) by striking out "The Administrator may sell any note securing" and inserting in lieu thereof "Beginning on October 1, 1989, the Administrator may sell any note evidencing"; and

(B) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively.

SEC. 7002. LOAN FEE EXTENSION.

Section 1829(c) of title 38, United States Code, is amended by striking out "1987" and inserting in lieu thereof "1989".

SEC. 7003. CASH SALES OF PROPERTIES ACQUIRED THROUGH FORECLOSURES.

(a) IN GENERAL.—Section 1816(d)(1) of title 38, United States Code, is amended by striking out "not more than 75 percent, nor less than 60 percent," in the first sentence and inserting in lieu thereof "not more than 65 percent, nor less than 50 percent,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of October 1, 1987.

SEC. 7004. STATUTORY CONSTRUCTION.

(a) STATUTORY CONSTRUCTION FOR PURPOSES OF THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL REAFFIRMATION ACT OF 1987.—For the purposes of subsections (a) and (b) of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the amendments made by section 7003 achieve savings made possible by changes in program requirements.

(b) RULE FOR CONSTRUCTION OF DUPLICATE PROVISIONS.—In applying the provisions of this title and the provisions of the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987 which make the same amendments as the provisions of this title—

(1) the identical provisions of title 38, United States Code, amended by the provisions of this title and the provisions of such Act shall be treated as having been amended only once; and

(2) in executing to title 38, United States Code, the amendments made by this title and by such Act, such amendments shall be executed so as to appear only once in the law.

TITLE VIII—BUDGET POLICY AND FISCAL PROCEDURES

SEC. 8001. DEFENSE AND DOMESTIC DISCRETIONARY SPENDING LIMITS.

(a) AGGREGATE ALLOCATIONS FOR DEFENSE.—The levels of budget authority and budget outlays for fiscal years 1988 and 1989 for major functional category 050 (National Defense) shall be:

(1) Fiscal year 1988:

(A) New budget authority, $292,000,000,000.

(B) Outlays, $285,400,000,000.

(2) Fiscal year 1989:

(A) New budget authority, $299,500,000,000.

(B) Outlays, $294,000,000,000.

(b) AGGREGATE ALLOCATIONS FOR DOMESTIC DISCRETIONARY SPENDING.—The levels of total budget authority and total budget outlays for fiscal years 1988 and 1989 for all discretionary spending in categories other than major functional category 050 (National Defense) shall be:

(1) Fiscal year 1988:

(A) New budget authority, $162,900,000,000.

(B) Outlays, $176,800,000,000.

(2) Fiscal year 1989:

(A) New budget authority, $166,200,000,000.

(B) Outlays, $185,300,000,000.

(c) FISCAL YEAR 1989 BUDGET RESOLUTION.—

(1) HOUSE OF REPRESENTATIVES.—The Committee on the Budget of the House of Representatives [81] shall report a concurrent resolution on the budget for fiscal year 1989, pursuant to section 301 of the Congressional Budget Act of 1974, in accordance with the appropriate levels of budget authority and budget outlays for major functional category 050 (National Defense) and for all discretionary spending in categories other than major functional category 050 as set forth in subsections (a)(2) and (b)(2).

(2) POINT OF ORDER IN THE SENATE ON AGGREGATE ALLOCATIONS FOR DEFENSE AND DOMESTIC DISCRETIONARY SPENDING FOR FISCAL YEAR 1989.—

(A) Except as provided in subparagraph (E), it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1989 (including a conference report thereon), or any amendment to such a resolution, that would fail to be consistent with the allocations in subsections (a) and (b) for such fiscal year.

(B) Subparagraph (A) may be waived or suspended by a vote of three-fifths of the Members of the Senate, duly chosen and sworn.

(C) If the ruling of the presiding officer of the Senate sustains a point of order raised pursuant to subparagraph (A), a vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of such ruling. Debate on any such appeal shall be limited to two hours, to be equally divided between, and controlled by, the Majority and Minority Leaders, or their designees.

(D) For purposes of this paragraph, the levels of new budget authority, spending authority as described in section 401(c)(2), outlays, and new credit authority for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(E) This paragraph shall not apply if a declaration of war by the Congress is in effect or if a resolution pursuant to section 254(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

(d) ALLOCATIONS PURSUANT TO FISCAL YEAR 1989 BUDGET RESOLUTION.—(1) The allocations required to be included in the joint explanatory statement accompanying the conference report on the concurrent resolution on the budget for fiscal year 1989, pursuant to section 302(a) of the Congressional Budget Act of 1974, shall be based upon the levels set forth in subsections (a)(2) and (b)(2) of this section.

(2) The Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House, make the subdivisions required under section 302(b)(1) of the Congressional Budget Act of 1974 consistent with the allocations in subsections (a)(2) and (b)(2) for fiscal year 1989.

SEC. 8002. RESTORATION OF FUNDS SEQUESTERED.

(a) ORDER RESCINDED.—Upon the enactment of this Act and House Joint Resolution 395, 100th Congress,[82] 1st session, the orders issued by the President on October 20, 1987, and November 20, 1987, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are hereby rescinded.

(b) AMOUNTS RESTORED.—Except as otherwise provided in sections 4001, 4041(b), and 4061, any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequesterable resource that has been reduced or sequestered by such orders is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

SEC. 8003. TECHNICAL AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

(a) REFERENCES IN SECTION.—Except as otherwise specifically provided, whenever in this section an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Congressional Budget and Impoundment Control Act of 1974.

(b) REVISION OF TABLE OF CONTENTS.—Section 1(b) is amended by striking "Disapproval of proposed deferrals" and inserting "Proposed deferrals".

(c) REDESIGNATION OF SUBPARAGRAPH HEADINGS.—Section 3(7) (as amended by section 106(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by—

(1) striking section 3(7)(C);

(2) redesignating section 3(7)(D) as 3(7)(C);

(3) redesignating section 3(7)(E) as 3(7)(D);

(4) redesignating section 3(7)(F) as 3(7)(E);

(5) redesignating section 3(7)(G) as 3(7)(F);

(6) redesignating section 3(7)(H) as 3(7)(G); and

(7) redesignating section 3(7)(I) as 3(7)(H).

(d) GRAMMATICAL CLARIFICATION OF SECTION 305(c).—Section 305(c) (as amended by section 209 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by inserting a comma after "therewith".

(e) SUBSTITUTION OF "PROPOSED" FOR "MADE" WITH REGARD TO AMENDMENTS IN COMMITTEE.—Section 252(c)(2)(F)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by section 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by striking "made" and inserting "proposed".

(f) CLARIFICATION OF BUDGET BASELINE.—Section 251(a)(6)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by section 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by striking out "and" before "contract authority" and by inserting before the semicolon at the end thereof the following: ", and that authority to provide insurance through the Federal Housing Administration Fund is continued".

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[81] Copy read "Representative".

[82] Copy read "Congres".

SEC. 8004. PREPARATION OF PRINTED ENROLLED BILL.

(a) PREPARATION OF PRINTED ENROLLMENT.—(1) Upon the enactment of this Act enrolled as a hand enrollment, the Clerk of the House of Representatives shall prepare a printed enrollment of this Act as in the case of a bill or joint resolution to which sections 106 and 107 of title 1, United States Code, apply. Such enrollment shall be a correct enrollment of this Act as enrolled in the hand enrollment.

(2) A printed enrollment prepared pursuant to paragraph (1) may, in order to conform to customary style for printed laws, include corrections in spelling, punctuation, indentation, type face, and type size and other necessary stylistic corrections to the hand enrollment. Such a printed enrollment shall include notations (in the margins or as otherwise appropriate) of all such corrections.

(b) TRANSMITTAL TO PRESIDENT.—A printed enrollment prepared pursuant to subsection (a) shall be signed by the presiding officers of both Houses of Congress as a correct printing of the hand enrollment of this Act and shall be transmitted to the President.

(c) CERTIFICATION BY PRESIDENT; LEGAL EFFECT.—Upon certification by the President that a printed enrollment transmitted pursuant to subsection (b) is a correct printing of the hand enrollment of this Act, such printed enrollment shall be considered for all purposes as the original enrollment of this Act and as valid evidence of the enactment of this Act.

(d) ARCHIVES.—A printed enrollment certified by the President under subsection (c) shall be transmitted to the Archivist of the United States, who shall preserve it with the hand enrollment. In preparing this Act for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (c) in lieu of the hand enrollment.

(e) HAND ENROLLMENT DEFINED.—As used in this section, the term "hand enrollment" means enrollment in a form other than the printed form required by sections 106 and 107 of title 1, United States Code, as authorized by the joint resolution entitled "Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988", approved December 1987 (H.J. Res. 426 of the 100th Congress).

SEC. 8005. ASSET SALES.

In the fiscal year 1989 budget process, Congress commits to pass legislation sufficient to achieve the budget summit agreement of $3,500,000,000 of asset sales in fiscal year 1989.

TITLE IX—INCOME SECURITY AND RELATED PROGRAMS

TABLE OF CONTENTS

Subtitle A—OASDI Provisions

PART 1—COVERAGE AND BENEFITS

SEC. 9001. COVERAGE OF INACTIVE DUTY MILITARY TRAINING.

(a) SOCIAL SECURITY ACT AMENDMENTS.—(1) Paragraph (1) of section 210(l) of the Social Security Act is amended to read as follows:

"(l)(1) Except as provided in paragraph (4), the term 'employment' shall, notwithstanding the provisions of subsection (a) of this section, include—

"(A) service performed after December 1956 by an individual as a member of a uniformed service on active duty, but such term shall not include any such service which is performed while on leave without pay, and

"(B) service performed after December 1987 by an individual as a member of a uniformed service on inactive duty training.".

(2) The second indented paragraph following subsection (s) in section 209 of such Act (relating to service in the uniformed services) is amended by striking "only his basic pay" and all that follows and inserting "only (1) his basic pay as described in chapter 3 and section 1009 of title 37, United States Code, in the case of an individual performing service to which subparagraph (A) of such section 210(l)(1) applies, or (2) his compensation for such service as determined under section 206(a) of title 37, United States Code, in the case of an individual performing service to which subparagraph (B) of such section 210(l)(1) applies.".

(b) FICA AMENDMENTS.—(1) Paragraph (1) of section 3121(m) of the Internal Revenue Code of 1986 (relating to inclusion of service in the uniformed services) is amended to read as follows:

"(1) INCLUSION OF SERVICE.—The term 'employment' shall, notwithstanding the provisions of subsection (b) of this section, include—

"(A) service performed by an individual as a member of a uniformed service on active duty, but such term shall not include any such service which is performed while on leave without pay, and

"(B) service performed by an individual as a member of a uniformed service on inactive duty training.".

(2) Paragraph (2) of section 3121(i) of such Code (relating to computation of wages for individuals performing service in the uniformed services) is amended by striking "only his basic pay" and all that follows and inserting "only (A) his basic pay as described in chapter 3 and section 1009 of title 37, United States Code, in the case of an individual performing service to which subparagraph (A) of such subsection (m)(1) applies, or (B) his compensation for such service as determined under section 206(a) of title 37, United States Code, in the case of an individual performing service to which subparagraph (B) of such subsection (m)(1) applies.".

(c) CONFORMING AMENDMENT.—Section 229(a) of the Social Security Act is amended by striking "section 210(l)" and inserting "210(l)(1)(A)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

SEC. 9002. COVERAGE OF ALL CASH PAY OF AGRICULTURAL EMPLOYEES WHOSE EMPLOYERS SPEND $2,500 OR MORE A YEAR FOR AGRICULTURAL LABOR.

(a) SOCIAL SECURITY ACT AMENDMENT.—Paragraph (2) of section 209(h) of the Social Security Act is amended by striking clause (B) and inserting "(B) the employer's expenditures for agricultural labor in such year equal or exceed $2,500;".

(b) FICA AMENDMENT.—Subparagraph (B) of section 3121(a)(8) of the Internal Revenue Code of 1986 (relating to wages) is amended by striking clause (ii) and inserting "(ii) the employer's expenditures for agricultural labor in such year equal or exceed $2,500;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration for agricultural labor paid after December 31, 1987.

SEC. 9003. COVERAGE OF THE EMPLOYER COST OF GROUP-TERM LIFE INSURANCE.

(a) COVERAGE UNDER OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM.—(1) SOCIAL SECURITY ACT AMENDMENT.—Clause (3) of section 209(b) of the Social Security Act is amended by striking "death" and inserting "death, except that this subsection does not apply to a payment for group-term life insurance to the extent that such payment is includible in the gross income of the employee under the Internal Revenue Code of 1986".

(2) FICA AMENDMENT.—Subparagraph (C) of section 3121(a)(2) of the Internal Revenue Code of 1986 (relating to wages) is amended by striking "death" and inserting "death, except that this paragraph does not apply to a payment for group-term life insurance to the extent that such payment is includible in the gross income of the employee".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to group-term life insurance coverage in effect after December 31, 1987.

SEC. 9004. COVERAGE OF SERVICES PERFORMED BY ONE SPOUSE IN THE EMPLOY OF THE OTHER.

(a) SOCIAL SECURITY ACT AMENDMENTS.—

(1) IN GENERAL.—Subparagraph (A) of section 210(a)(3) of the Social Security Act is amended by striking "performed by an individual in the employ of his spouse, and service".

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF A SPOUSE.—Paragraph (3) of section 210(a) of such Act is amended by striking so much of subparagraph (B) as precedes clause (i) and inserting the following:

"(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—".

(b) FICA AMENDMENTS.—

(1) IN GENERAL.—Subparagraph (A) of section 3121(b)(3) of the Internal Revenue Code of 1986 (relating to employment) is amended by striking "performed by an individual in the employ of his spouse, and service".

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF A SPOUSE.—Paragraph (3) of section 3121(b) of such Code (relating to employment) is amended by striking so much of subparagraph (B) as precedes clause (i) and inserting the following:

"(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service per-

[83] Copy read "family independence program.".

[84] Copy read "state.".

[85] Copy read "commission children.".

[86] Copy read "service".

formed by an individual in the employ of his son or daughter if—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

SEC. 9005. TREATMENT OF SERVICE PERFORMED BY AN INDIVIDUAL IN THE EMPLOY OF A PARENT.

(a) SOCIAL SECURITY ACT AMENDMENTS.—

(1) AGE BELOW WHICH SERVICE FOR PARENT IS EXCLUDED FROM COVERED EMPLOYMENT REDUCED TO AGE 18.—Subparagraph (A) of section 210(a)(3) of the Social Security Act (as amended by section 9004(a)(1) of this Act) is further amended by striking "twenty-one" and inserting "18".

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF PARENT.—Subparagraph (B) of section 210(a)(3) of such Act (as amended by section 9004(a)(2) of this Act) is further amended by inserting "under the age of 21 in the employ of his father or mother, or performed by an individual" after "individual" the first place it appears.

(b) FICA AMENDMENTS.—

(1) AGE BELOW WHICH SERVICE FOR PARENT IS EXCLUDED FROM COVERED EMPLOYMENT REDUCED TO AGE 18.—Subparagraph (A) of section 3121(b)(3) of the Internal Revenue Code of 1986 (as amended by section 9004(b)(1) of this Act) is further amended by striking "21" and inserting "18".

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF PARENT.—Subparagraph (B) of section 3121(b)(3) of such Code (as amended by section 9004(b)(2) of this Act) is further amended by inserting "under the age of 21 in the employ of his father or mother, or performed by an individual" after "individual" the first place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

SEC. 9006. APPLICATION OF EMPLOYER TAXES TO EMPLOYEES' CASH TIPS.

(a) APPLICATION OF TAX TO TIPS.—Section 3121(q) of the Internal Revenue Code of 1986 (relating to inclusion of tips for employee taxes) is amended—

(1) by striking "EMPLOYEE TAXES" in the heading and inserting "BOTH EMPLOYEE AND EMPLOYER TAXES";

(2) by striking "other than for purposes of the taxes imposed by section 3111";

(3) by striking "remuneration for employment" and inserting "remuneration for such employment (and deemed to have been paid by the employer for purposes of subsections (a) and (b) of section 3111)"; and

(4) by inserting after "at the time received" the following: "; except that, in determining the employer's liability in connection with the taxes imposed by section 3111 with respect to such tips in any case where no statement including such tips was so furnished (or to the extent that the statement so furnished was inaccurate or incomplete), such remuneration shall be deemed for purposes of subtitle F to be paid on the date on which notice and demand for such taxes is made to the employer by the Secretary".

(b) CONFORMING AMENDMENTS.—(1) Subsections (a) and (b) of section 3111(a) of such Code (relating to rate of tax on employers) are each amended by striking "and (t)".

(2) Section 3121(t) of such Code (relating to special rule) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to tips received (and wages paid) on and after January 1, 1988.

SEC. 9007. APPLICABILITY OF GOVERNMENT PENSION OFFSET TO CERTAIN FEDERAL EMPLOYEES.

(a) WIFE'S INSURANCE BENEFITS.—Paragraph (4) of section 202(b) of the Social Security Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a wife's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the wife (or divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day she was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the wife (or divorced wife) is eligible for benefits under this subsection and has made a valid application for such benefits.".

(b) HUSBAND'S INSURANCE BENEFITS.—Paragraph (2) of section 202(c) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a husband's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the husband (or divorced husband) for such month which is based upon his earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the husband (or divorced husband) is eligible for benefits under this subsection and has made a valid application for such benefits.".

(c) WIDOW'S INSURANCE BENEFITS.—Paragraph (7) of section 202(e) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a widow's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k), paragraph (2)(D), and paragraph (3)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the widow (or surviving divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day she was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the widow (or surviving divorced wife) is eligible for benefits under this subsection and has made a valid application for such benefits.".

(d) WIDOWER'S INSURANCE BENEFITS.—Paragraph (2) of section 202(f) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a widower's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k), paragraph (3)(D), and paragraph (4)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the widower (or surviving divorced husband) for such month which is based upon his earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the widower (or surviving divorced husband) is eligible for benefits under this subsection and has made a valid application for such benefits.".

(e) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Paragraph (4) of section 202(g) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a mother's or father's insurance benefit for each month (as determined after application of the provisions of subsection (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the individual for such month which is based upon the individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day the individual was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the individual is eligible for benefits under this subsection and has made a valid application for such benefits.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to benefits for months after December 1987; except that nothing in such amendments shall affect any exemption (from the application of the pension offset provisions contained in subsection (b)(4), (c)(2), (e)(7), (f)(2), or (g)(4) of section 202 of the Social Security Act) which any individual may have by reason of subsection (g) or (h) of section 334 of the Social Security Amendments of 1977.

SEC. 9008. MODIFICATION OF AGREEMENT WITH IOWA TO PROVIDE COVERAGE FOR CERTAIN POLICEMEN AND FIREMEN.

(a) IN GENERAL.—Notwithstanding subsection (d)(5)(A) of section 218 of the Social Security Act and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of Iowa heretofore entered into pursuant to such section 218 may, at any time prior to January 1, 1989, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen's or firemen's positions required to be covered by a retirement system pursuant to section 410.1 of the Iowa Code as in effect on July 1, 1953, if the State of Iowa has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions, the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date).

(b) SERVICE TO BE COVERED.—Notwithstanding the provisions of subsection (e) of section 218 of the Social Security Act (as so redesignated by section 9002(c)(1) of the Omnibus Budget Reconciliation Act of 1986)), any modification in the agreement with the State of Iowa under subsection (a) shall be made effective with respect to—

(1) all services performed in any policemen's or firemen's position to which the modification relates on or after January 1, 1987, and

(2) all services performed in such a position before January 1, 1987, with respect to which the State of Iowa has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date) at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

(A) no refund of the sums so paid has been obtained, or

(B) a refund of part or all of the sums so paid has been obtained but the State of Iowa repays to the Secretary of the Treasury the amount of such refund within 90 days after the date on which the modification is agreed to by the State and the Secretary of Health and Human Services.

SEC. 9009. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 of the Social Security Act is amended—

(1) in paragraph (1)(iii), by striking "June 1988" and inserting "June 1989"; and

(2) in paragraph (3)(B), by striking "January 1, 1988" and inserting "January 1, 1989".

SEC. 9010. EXTENSION OF DISABILITY RE-ENTITLEMENT PERIOD FROM 15 MONTHS TO 36 MONTHS.

(a) DISABILITY INSURANCE BENEFITS.—Paragraph (1) of section 223(a) of the Social Security Act is amended by striking "15 months" and inserting "36 months".

(b) CHILD'S INSURANCE BENEFITS BASED ON DISABILITY.—Clause (i) of section 202(d)(1)(G) of such Act is amended by striking "15 months" and inserting "36 months".

(c) WIDOW'S INSURANCE BENEFITS BASED ON DISABILITY.—Paragraph (1) of section 202(e) of such Act is amended, in subclause (II) of the last sentence, by striking "15 months" and inserting "36 months".

(d) WIDOWER'S INSURANCE BENEFITS BASED ON DISABILITY.—Paragraph (1) of section 202(f) of such Act is amended, in subclause (II) of the last sentence, by striking "15 months" and inserting "36 months".

(e) CONFORMING AMENDMENTS.—

(1) TERMINATION OF PERIOD OF DISABILITY.—Subparagraph (D) of section 216(i)(2) of such Act is amended by striking "15-month" and inserting "36-month".

(2) TERMINATION OF BENEFITS DURING RE-ENTITLEMENT PERIOD.—Subsection (e) of section 223 of such Act is amended by striking "15-month" and inserting "36-month".

(3) SPECIAL RULE FOR [87] DETERMINATION OF CONTINUED MEDICARE ELIGIBILITY BASED ON ENTITLEMENT TO DISABILITY BENEFITS.—Section 226(b) of such Act is amended by adding at the end the following new sentence: "In determining when an individual's entitlement or status terminates for purposes of the preceding sentence, the second sentence of section 223(a) shall be applied as though the term '36 months' (in such second sentence) read '15 months'.".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1988, and shall apply with respect to—

(1) individuals who are entitled to benefits which are payable under subsection (d)(1)(B)(ii), (d)(6)(A)(ii), (d)(6)(B), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 of the Social Security Act or subsection (a)(1) of section 223 of such Act for any month after December 1987, and

(2) individuals who are entitled to benefits which are payable under any provision referred to in paragraph (1) for any month before January 1988 and with respect to whom the 15-month period described in the applicable provision amended by this section has not elapsed as of January 1, 1988.

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[87] Copy read "FOR".

PART 2—OTHER SOCIAL SECURITY PROVISIONS

SEC. 9021. MORATORIUM ON REDUCTIONS IN ATTORNEYS' FEES; STUDIES OF ATTORNEYS' FEE PAYMENT SYSTEM.

(a) MORATORIUM.—(1) The provisions of the memorandum of the Associate Commissioner of Social Security dated March 31, 1987 (relating to revised delegations of authority for administrative law judges to determine fees of representatives) which amend sections 1-220 through 1-226 of the Office of Hearings and Appeals Staff Guides and Programs Digest (commonly referred to as the OHA Handbook), and Interim Circular No. 122 (relating to the determination authority regarding fees for representation of claimants), are hereby declared to be null and void. The preceding sentence shall apply with respect to all attorneys' fees finally authorized in connection with claims for benefits under title II of the Social Security Act on and after the date of the enactment of this Act, regardless of when the legal services involved were performed; and no reconsideration of any such fee finally authorized prior to that date shall be required.

(2) Until July 1, 1989, neither the Secretary nor the Social Security Administration may modify any of the rules and regulations relating to attorneys' fees in connection with claims for benefits under title II of the Social Security Act.

(b) STUDIES.—(1) The Secretary of Health and Human Services shall conduct a study of the attorneys' fee payment process under title II of the Social Security Act. Such study shall—

(A) assess the levels of reimbursement to attorneys, giving consideration to the contingent nature of most arrangements between claimants and their legal representatives, and propose alternative methods for establishing fees which take the nature of these arrangements into account, and

(B) suggest changes aimed at eliminating unnecessary delays in the approval and payment of attorneys' fees and thereby streamlining the payment process.

In conducting this study, the Secretary shall consult with individuals who represent the views of attorneys and with others who represent the views of claimants.

(2) At the same time, the Comptroller General shall conduct a study of the fee approval system, including at a minimum—

(A) a study of the impact of the current system on claimants and attorneys,

(B) an identification of obstacles to the timely payment of attorneys' fees under present law, and

(C) an assessment of the effect, if any, which the reduced limit on attorneys' fees in effect immediately prior to the enactment of this Act has had on access to legal representation by applicants for disability insurance benefits.

(3) The studies required by paragraphs (1) and (2), along with any recommendations resulting therefrom, shall be submitted to the Congress no later than July 1, 1988.

SEC. 9022. CORPORATE DIRECTORS.

(a) SOCIAL SECURITY ACT AMENDMENT.—Section 211(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"Any income of an individual which results from or is attributable to the performance of services by such individual as a director of a corporation during any taxable year shall be deemed to have been derived (and received) by such individual in that year, at the time the services were performed, regardless of when the income is actually paid to or received by such individual (unless it was actually paid and received prior to that year).".

(b) SECA AMENDMENT.—Section 1402(a) of the Internal Revenue Code of 1986 (relating to definition of net earnings from self-employment) is amended by adding at the end thereof the following new paragraph:

"Any income of an individual which results from or is attributable to the performance of services by such individual as a director of a corporation during any taxable year shall be deemed to have been derived (and received) by such individual in that year, at the time the services were performed, regardless of when the income is actually paid to or received by such individual (unless it was actually paid and received prior to that year).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services performed in taxable years beginning on or after January 1, 1988.

SEC. 9023. TECHNICAL CORRECTIONS.

(a) The heading of section 210(p) of the Social Security Act is amended to read as follows:

"Medicare Qualified Government Employment".

(b)(1) Section 211(a)(7) of such Act is amended—

(A) by inserting "and" before "section 911"; and

(B) by striking "and section 931 (relating to income from sources within possessions of the United States) of the Internal Revenue Code of 1954".

(2) Section 211(a)(8) of such Act is amended to read as follows:

"(8) The exclusion from gross income provided by section 931 of the Internal Revenue Code of 1986 shall not apply;".

(c) Section 218(v) of such Act is amended—

(1) by striking "(v)" and inserting "(n)";

(2) by striking paragraph (3); and

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(d) Section 3121(a)(5) of the Internal Revenue Code of 1986 is amended—

(1) by striking "; or" at the end of subparagraph (F) and inserting ", or"; and

(2) by striking the comma at the end of subparagraph (G) and inserting a semicolon.

PART 3—RAILROAD RETIREMENT PROGRAM

SEC. 9031. INCREASE IN RATES OF TIER 2 RAILROAD RETIREMENT TAX ON EMPLOYEES FOR 1988 AND THEREAFTER.

(a) IN GENERAL.—Subsection (b) of section 3201 of the Internal Revenue Code of 1986 (relating to tier 2 employee tax) is amended to read as follows:

"(b) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to 4.90 percent of the compensation received during any calendar year by such employee for services rendered by such employee.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to compensation received after December 31, 1987.

SEC. 9032. INCREASE IN RATES OF TIER 2 RAILROAD RETIREMENT TAX ON EMPLOYERS FOR 1988 AND THEREAFTER.

(a) IN GENERAL.—Subsection (b) of section 3221 of the Internal Revenue Code of 1986 (relating to tier 2 employer tax) is amended to read as follows:

"(b) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 16.10 percent of the compensation paid during any calendar year by such employer for services rendered to such employer.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to compensation paid after December 31, 1987.

SEC. 9033. COMMISSION ON RAILROAD RETIREMENT REFORM.

(a) COMMISSION ON RAILROAD RETIREMENT REFORM.—There is established a commission to be known as the Commission on Railroad Retirement Reform (in this section referred to as the "Commission").

(b) STUDY.—The Commission shall conduct a comprehensive study of the issues pertaining to the long-term financing of the railroad retirement system (in this section referred to as the "system") and the system's short-term and long-term solvency. The Commission shall submit a report containing a detailed statement of its findings and conclusions together with recommendations to the Congress for revisions in, or alternatives to, the current system to assure the provision of retirement benefits to former, present, and future railroad employees on an actuarially sound basis. The study will take into account—

(1) the possibility of restructuring the financing of railroad retirement benefits through increases in the tier 2 tax rate, increases in the tier 2 tax wage base, the imposition of a tax on operating revenues, revisions in the investment policy of the railroad retirement pension fund, and establishing a privately funded and administered railroad industry pension plan;

(2) the economic outlook for the railroad industry, and the nature of the relationships between the railroad retirement system, levels of railroad employment and compensation, and the performance of the rail sector;

(3) the ability of the system under current law to pay benefits to current and future retirees and other beneficiaries;

(4) the financial relationship of the system to the railroad unemployment insurance system, the social security system, and the General Fund; and

(5) any other matters which the Commission considers would be necessary, appropriate, or useful to the Congress in developing legislation to reform the system.

(c) MEMBERSHIP OF THE COMMISSION.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of seven members, as follows:

(A) four individuals appointed by the President—

(i) one of whom shall be appointed on the basis of recommendations made by representatives of employers (as defined in section 1(a) of the Railroad Retirement Act of 1974) so as to provide representation on the Commission satisfactory to the largest number of employers concerned,

(ii) one of whom shall be appointed on the basis of recommendations made by representatives of employees (as defined in section 1(b) of the Railroad Retirement Act of 1974) so as to provide representation on the Commission satisfactory to the largest number of employees concerned,

(iii) one of whom shall be appointed on the basis of recommendations made by representatives of commuter railroads, and

(iv) one of whom shall be appointed from members of the public;

(B) one individual appointed by the Speaker of the House of Representatives from among members of the public;

(C) one individual appointed by the President pro tempore of the Senate from among members of the public; and

(D) one individual appointed by the Comptroller General from among members of the public with expertise in the fields of retirement systems and pension plans.

All public members of the Commission shall be appointed from among individuals who are not in the employment of and are not pecuniarily or otherwise interested in any employer (as so defined) or organization of employees (as so defined). In making appointments under this section, the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall ensure that the members of the Commission, collectively, possess special knowledge of retirement income policy, social insurance, private pensions, taxation, and the structure of the transportation industry. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(2) PAY.—Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

(3) QUORUM.—Five members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(4) CHAIRMAN.—The members of the Commission shall elect a Chairman from among the membership.

(d) STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.—

(1) STAFF.—Subject to such rules as may be prescribed by the Commission, the Chairman may appoint and fix the pay of such personnel as the Chairman considers appropriate.

(2) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(3) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the Railroad Retirement Board and any other Federal agency may detail, on a reimbursable basis, any of the personnel thereof to the Commission to assist the Commission in carrying out its duties under this section.

(e) ACCESS TO OFFICIAL DATA AND SERVICES.—

(1) OFFICIAL DATA.—The Commission may, as appropriate, secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall, as appropriate, furnish such information to the Commission.

(2) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(3) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) REPORT.—The Commission shall transmit a report to the President and to each House of the Congress not later than October 1, 1989. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its legislative recommendations.

(g) TERMINATION.—The Commission shall cease to exist 60 days after submitting its report pursuant to subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated the sum of $1,000,000 for purposes of this section, to remain available until expended but in no event beyond the date of termination provided in subsection (g).

SEC. 9034. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended—

(1) by inserting "(other than amounts described in subparagraph (B))" after "amounts";

(2) by striking "1988" and inserting "1989"; and

(3) by striking the last sentence.

Subtitle B—Provisions Relating to Public Assistance and Unemployment Compensation

PART 1—AFDC AND SSI AMENDMENTS

SEC. 9101. PERMANENT EXTENSION OF DISREGARD OF NONPROFIT ORGANIZATIONS' IN-KIND ASSISTANCE TO SSI AND AFDC RECIPIENTS.

Effective as of October 1, 1987, section 2639(d) of the Deficit Reduction Act of 1984 is amended by striking "; but" and all that follows and inserting a period.

SEC. 9102. FRAUD CONTROL UNDER AFDC PROGRAM.

(a) IN GENERAL.—Part A of title IV of the Social Security Act is amended by adding at the end the following new section:

"FRAUD CONTROL

"SEC. 416. (a) Any State, in the administration of its State plan approved under section 402, may elect to establish and operate a fraud control program in accordance with this section.

"(b) Under any such program, if an individual who is a member of a family applying for or receiving aid under the State plan approved under section 402 is found by a Federal or State court or pursuant to an administrative hearing meeting requirements determined in regulations of the Secretary, on the basis of a plea of guilty or nolo contendere or otherwise, to have intentionally—

"(1) made a false or misleading statement or misrepresented, concealed, or withheld facts, or

"(2) committed any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity,

for the purpose of establishing or maintaining the family's eligibility for aid under such State plan or of increasing (or preventing a reduction in) the amount of such aid, then the needs of such individual shall not be taken into account in making the determination under section 402(a)(7) with respect to his or her family (A) for a period of 6 months upon the first occasion of any such offense, (B) for a period of 12 months upon the second occasion of any such offense, and (C) permanently upon the third or a subsequent occasion of any such offense.

"(c) The State agency involved shall proceed against any individual alleged to have committed an offense described in subsection (b) either by way of administrative hearing or by referring the matter to the appropriate authorities for civil or criminal action in a court of law. The State agency shall coordinate its actions under this section with any corresponding actions being taken under the food stamp program in any case where the factual issues involved arise from the same or related circumstances.

"(d) Any period for which sanctions are imposed under subsection (b) shall remain in effect, without possibility of administrative stay, unless and until the finding upon which the sanctions were imposed is subsequently reversed by a court of appropriate jurisdiction; but in no event shall the duration of the period for which such sanctions are imposed be subject to review.

"(e) The sanctions provided under subsection (b) shall be in addition to, and not in substitution for, any other sanctions which may be provided for by law with respect to the offenses involved.

"(f) Each State which has elected to establish and operate a fraud control program under this section must provide all applicants for aid to families with dependent children under its approved State plan, at the time of their application for such aid, with a written notice of the penalties for fraud which are provided for under this section.".

(b) STATE PLAN REQUIREMENT.—Section 402(a) of such Act is amended—

(1) by striking "and" after the semicolon at the end of paragraph (38);

(2) by striking the period at the end of paragraph (39) and inserting "; and"; and

(3) by inserting immediately after paragraph (39) the following new paragraph:

"(40) provide, if the State has elected to establish and operate a fraud control program under section 416, that the State will submit to the Secretary (with such revisions as may from time to time be necessary) a description of and budget for such program, and will operate such program in full compliance with that section.".

(c) FEDERAL MATCHING.—Section 403(a)(3) of such Act is amended—

(1) by striking "and" after the final comma in subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D);

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) 75 percent of so much of such expenditures as are for the costs of carrying out a fraud control program under section 416, including costs related to the investigation, prosecution, and administrative hearing of fraudulent cases and the making of any resultant collections, and"; and

(4) by striking "(C)" in the matter following subparagraph (D) (as redesignated by paragraph (2) of this subsection) and inserting "(D)".

[88](d) EFFECTIVE DATE.—The amendments made by this section shall become effective April 1, 1988.

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[88] Copy read "EFFECTIVE DATE.—".

for contributions or gifts which are to be used exclusively for purposes referred to in section 170(c)(4).

"(c) FUNDRAISING SOLICITATION.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'fundraising solicitation' means any solicitation of contributions or gifts which is made—

"(A) in written or printed form,

"(B) by television or radio, or

"(C) by telephone.

"(2) EXCEPTION FOR CERTAIN LETTERS OR CALLS.—The term 'fundraising solicitation' shall not include any letter or telephone call if such letter or call is not part of a coordinated fundraising campaign soliciting more than 10 persons during the calendar year."

(b) PENALTY.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6710. FAILURE TO DISCLOSE THAT CONTRIBUTIONS ARE NONDEDUCTIBLE.

"(a) IMPOSITION OF PENALTY.—If there is a failure to meet the requirement of section 6113 with respect to a fundraising solicitation by (or on behalf of) an organization to which section 6113 applies, such organization shall pay a penalty of $1,000 for each day on which such a failure occurred. The maximum penalty imposed under this subsection on failures by any organization during any calendar year shall not exceed $10,000.

"(b) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

"(c) $10,000 LIMITATION NOT TO APPLY WHERE INTENTIONAL DISREGARD.—If any failure to which subsection (a) applies is due to intentional disregard of the requirement of section 6113—

"(1) the penalty under subsection (a) for the day on which such failure occurred shall be the greater of—

"(A) $1,000, or

"(B) 50 percent of the aggregate cost of the solicitations which occurred on such day and with respect to which there was such a failure,

"(2) the $10,000 limitation of subsection (a) shall not apply to any penalty under subsection (a) for the day on which such failure occurred, and

"(3) such penalty shall not be taken into account in applying such limitation to other penalties under subsection (a).

"(d) DAY ON WHICH FAILURE OCCURS.—For purposes of this section, any failure to meet the requirement of section 6113 with respect to a solicitation—

"(1) by television or radio, shall be treated as occurring when the solicitation was telecast or broadcast,

"(2) by mail, shall be treated as occurring when the solicitation was mailed,

"(3) not by mail but in written or printed form, shall be treated as occurring when the solicitation was distributed, or

"(4) by telephone, shall be treated as occurring when the solicitation was made."

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6113 and inserting in lieu thereof the following:

"Sec. 6113. Disclosure of nondeductibility of contributions.

"Sec. 6114. Cross reference."

(2) The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6710. Failure to disclose that contributions are nondeductible."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to solicitations after January 31, 1988.

SEC. 10702. PUBLIC INSPECTION OF ANNUAL RETURNS AND APPLICATIONS FOR TAX-EXEMPT STATUS.

(a) GENERAL RULE.—Section 6104 (relating to publicity of information required from certain tax-exempt organizations and certain trusts) is amended by adding at the end thereof the following new subsection:

"(e) PUBLIC INSPECTION OF CERTAIN ANNUAL RETURNS AND APPLICATIONS FOR EXEMPTION.—

"(1) ANNUAL RETURNS.—

"(A) IN GENERAL.—During the 3-year period beginning on the filing date, a copy of the annual return filed under section 6033 (relating to returns by exempt organizations) by any organization to which this paragraph applies shall be made available by such organization for inspection during regular business hours by any individual at the principal office of the organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office.

"(B) ORGANIZATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any organization which—

"(i) is described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a), and

"(ii) is not a private foundation (within the meaning of section 509(a)).

"(C) NONDISCLOSURE OF CONTRIBUTORS.—Subparagraph (A) shall not require the disclosure of the name or address of any contributor to the organization.

"(D) FILING DATE.—For purposes of subparagraph (A), the term 'filing date' means the last day prescribed for filing the return under section 6033 (determined with regard to any extension of time for filing).

"(2) APPLICATION FOR EXEMPTION.—

"(A) IN GENERAL.—If—

"(i) an organization described in subsection (c) or (d) of section 501 is exempt from taxation under section 501(a), and

"(ii) such organization filed an application for recognition of exemption under section 501,

a copy of such application (together with a copy of any papers submitted in support of such application and any letter or other document issued by the Internal Revenue Service with respect to such application) shall be made available by the organization for inspection during regular business hours by any individual at the principal office of the organization and, if the organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office.

"(B) NONDISCLOSURE OF CERTAIN INFORMATION.—Subparagraph (A) shall not require the disclosure of any information if the Secretary withheld such information from public inspection under subsection (a)(1)(D)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply—

(1) to returns for years beginning after December 31, 1986, and

(2) on and after the 30th day after the date of the enactment of this Act in the case of applications submitted to the Internal Revenue Service—

(A) after July 15, 1987, or

(B) on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987.

SEC. 10703. ADDITIONAL INFORMATION REQUIRED ON ANNUAL RETURNS OF SECTION 501(c)(3) ORGANIZATIONS.

(a) GENERAL RULE.—Subsection (b) of section 6033 (relating to certain organizations described in section 501(c)(3)) [128] is amended by striking out "and" at the end of paragraph (7), by striking out the period at the end of paragraph (8) and inserting in lieu thereof a comma, and by inserting after paragraph (8) the following new paragraphs:

"(9) such other information with respect to direct or indirect transfers to, and other direct or indirect transactions and relationships with, other organizations described in section 501(c) (other than paragraph (3) thereof) or section 527 as the Secretary may require to prevent—

"(A) diversion of funds from the organization's exempt purpose, or

"(B) misallocation of revenues or expenses, and

"(10) such other information for purposes of carrying out the internal revenue laws as the Secretary may require."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to returns for years beginning after December 31, 1987.

SEC. 10704. PENALTIES.

(a) GENERAL RULE.—Subsection (c) of section 6652 (relating to returns by exempt organizations and by certain trusts) is amended to read as follows:

"(c) RETURNS BY EXEMPT ORGANIZATIONS AND BY CERTAIN TRUSTS.—

"(1) ANNUAL RETURNS UNDER SECTION 6033.—

"(A) PENALTY ON ORGANIZATION.—In the case of—

"(i) a failure to file a return required under section 6033 (relating to returns by exempt organizations) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), or

"(ii) a failure to include any of the information required to be shown on a return filed under section 6033 or to show the correct information,

there shall be paid by the exempt organization $10 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 return shall not exceed the lesser of $5,000 or 5 percent of the gross receipts of the organization for the year.

"(B) MANAGERS.—

"(i) IN GENERAL.—The Secretary may make a written demand on any organization subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the return shall be filed (or the information furnished) for purposes of this subparagraph.

"(ii) FAILURE TO COMPLY WITH DEMAND.—If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by the person failing to so comply $10 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return shall not exceed $5,000.

[128] Copy read "503(c)(3))".

"(C) PUBLIC INSPECTION OF ANNUAL RETURNS.—In the case of a failure to comply with the requirements of subsection (d) or (e)(1) of section 6104 (relating to public inspection of annual returns) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the person failing to meet such requirements $10 for each day during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return shall not exceed $5,000.

"(D) PUBLIC INSPECTION OF APPLICATIONS FOR EXEMPTION.—In the case of a failure to comply with the requirements of section 6104(e)(2) (relating to public inspection of applications for exemption) on the date and in the manner prescribed therefor, there shall be paid by the person failing to meet such requirements $10 for each day during which such failure continues.

"(2) RETURNS UNDER SECTION 6034 OR 6043(b).—

"(A) PENALTY ON ORGANIZATION OR TRUST.—In the case of a failure to file a return required under section 6034 (relating to returns by certain trusts) or section 6043(b) (relating to terminations, etc., of exempt organizations), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the exempt organization or trust failing so to file $10 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization or trust for failure to file any 1 return shall not exceed $5,000.

"(B) MANAGERS.—The Secretary may make written demand on an organization or trust failing to file under subparagraph (A) specifying therein a reasonable future date by which such filing shall be made for purposes of this subparagraph. If such filing is not made on or before such date, there shall be paid by the person failing so to file $10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to file any 1 return shall not exceed $5,000.

"(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause.

"(4) OTHER SPECIAL RULES.—

"(A) TREATMENT AS TAX.—Any penalty imposed under this subsection shall be paid on notice and demand of the Secretary and in the same manner as tax.

"(B) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable under this subsection for any penalty with respect to any failure, all such persons shall be jointly and severally liable with respect to such failure.

"(C) PERSON.—For purposes of this subsection, the term 'person' means any officer, director, trustee, employee, or other individual who is under a duty to perform the act in respect of which the violation occurs."

(b) WILLFUL FAILURE TO PERMIT PUBLIC INSPECTION.—

(1) IN GENERAL.—Section 6685 (relating to assessable penalty with respect to private foundation annual returns) is amended to read as follows:

"SEC. 6685. ASSESSABLE PENALTY WITH RESPECT TO PUBLIC INSPECTION REQUIREMENTS FOR CERTAIN TAX-EXEMPT ORGANIZATIONS.

"In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to comply with the requirements of subsection (d) or (e) of section 6104 and who fails to so comply with respect to any return or application, if such failure is willful, shall pay a penalty of $1,000 with respect to each such return or application."

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking out the item relating to section 6685 and inserting in lieu thereof the following:

"Sec. 6685. Assessable penalty with respect to public inspection requirements for certain tax-exempt organizations."

(c) FURNISHING FRAUDULENT INFORMATION.—Section 7207 (relating to fraudulent returns, statements, or other documents) is amended by striking out "subsection (d) of section 6104" and inserting in lieu thereof "subsection (d) or (e) of section 6104".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) to returns for years beginning after December 31, 1986, and

(2) on and after the date of the enactment of this Act in the case of applications submitted to the Internal Revenue Service—

(A) after July 15, 1987, or

(B) on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987.

SEC. 10705. REQUIRED DISCLOSURE THAT CERTAIN INFORMATION OR SERVICE AVAILABLE FROM FEDERAL GOVERNMENT.

(a) GENERAL RULE.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6711. FAILURE BY TAX-EXEMPT ORGANIZATION TO DISCLOSE THAT CERTAIN INFORMATION OR SERVICE AVAILABLE FROM FEDERAL GOVERNMENT.

"(a) IMPOSITION OF PENALTY.—If—

"(1) a tax-exempt organization offers to sell (or solicits money for) specific information or a routine service for any individual which could be readily obtained by such individual free of charge (or for a nominal charge) from an agency of the Federal Government,

"(2) the tax-exempt organization, when making such offer or solicitation, fails to make an express statement (in a conspicuous and easily recognizable format) that the information or service can be so obtained, and

"(3) such failure is due to intentional disregard of the requirements of this subsection,

such organization shall pay a penalty determined under subsection (b) for each day on which such a failure occurred.

"(b) AMOUNT OF PENALTY.—The penalty under subsection (a) for any day on which a failure referred to in such subsection occurred shall be the greater of—

"(1) $1,000, or

"(2) 50 percent of the aggregate cost of the offers and solicitations referred to in subsection (a)(1) which occurred on such day and with respect to which there was such a failure.

"(c) DEFINITIONS.—For purposes of this section—

"(1) TAX-EXEMPT ORGANIZATION.—The term 'tax-exempt organization' means any organization which—

"(A) is described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a), or

"(B) is a political organization (as defined in section 527(e)).

"(2) DAY ON WHICH FAILURE OCCURS.—The day on which any failure referred to in subsection (a) occurs shall be determined under rules similar to the rules of section 6710(d)."

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6711. Failure by tax-exempt organization to disclose that certain information or service available from Federal Government."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers and solicitations after January 31, 1988.

PART II—POLITICAL ACTIVITIES

SEC. 10711. CLARIFICATION OF PROHIBITED POLITICAL ACTIVITIES.

(a) GENERAL RULE.—The following provisions are each amended by striking out "on behalf of any candidate" and inserting in lieu thereof "on behalf of (or in opposition to) any candidate":

(1) Section 170(c)(2)(D).

(2) Section 501(c)(3).

(3) Paragraphs (2) and (3) of section 2055(a).

(4) Clauses (ii) and (iii) of section 2106(a)(2)(A).

(5) Section 2522(a)(2).

(6) Paragraphs (2) and (3) of section 2522(b).

(b) STATUS AFTER DISQUALIFICATION BECAUSE OF POLITICAL ACTIVITIES.—

(1) IN GENERAL.—Paragraph (2) of section 504(a) (relating to status after organization ceases to qualify for exemption under section 501(c)(3) because of substantial lobbying) is amended to read as follows:

"(2) is not an organization described in section 501(c)(3)—

"(A) by reason of carrying on propaganda, or otherwise attempting, to influence legislation, or

"(B) by reason of participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for public office,".

(2) CLERICAL AMENDMENTS.—

(A) The section heading for section 504 is amended by striking out "SUBSTANTIAL LOBBYING" and inserting in lieu thereof "SUBSTANTIAL LOBBYING OR BECAUSE OF POLITICAL ACTIVITIES".

(B) The table of sections for part I of subchapter F of chapter 1 is amended by striking out "substantial lobbying" in the item relating to section 504 and inserting in lieu thereof "substantial lobbying or because of political activities".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to activities after the date of the enactment of this Act.

SEC. 10712. EXCISE TAXES ON POLITICAL EXPENDITURES BY SECTION 501(c)(3) ORGANIZATIONS.

(a) GENERAL RULE.—Chapter 42 (relating to excise taxes on private foundations and black lung benefit trusts) is amended by redesignating subchapter C as subchapter D and by inserting after subchapter B the following new subchapter:

"Subchapter C—Political Expenditures of Section 501(c)(3) Organizations

"Sec. 4955. Taxes on political expenditures of section 501(c)(3) organizations.

"SEC. 4955. TAXES ON POLITICAL EXPENDITURES OF SECTION 501(c)(3) ORGANIZATIONS.

"(a) INITIAL TAXES.—

"(1) ON THE ORGANIZATION.—There is hereby imposed on each political expenditure by a section 501(c)(3) organization a tax equal to 10 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the organization.

"(2) ON THE MANAGEMENT.—There is hereby imposed on the agreement of any organization manager to the making of any expenditure, knowing that it is a political expenditure, a tax equal to 2½ percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who agreed to the making of the expenditure.

"(b) ADDITIONAL TAXES.—

"(1) ON THE ORGANIZATION.—In any case in which an initial tax is imposed by subsection (a)(1) on a political expenditure and such expenditure is not corrected within the taxable period, there is hereby imposed a tax equal to 100 percent of the amount of the expenditure. The tax imposed by this paragraph shall be paid by the organization.

"(2) ON THE MANAGEMENT.—In any case in which an additional tax is imposed by paragraph (1), if an organization manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the political expenditure. The tax imposed by this paragraph shall be paid by any organization manager who refused to agree to part or all of the correction.

"(c) SPECIAL RULES.—For purposes of subsections (a) and (b)—

"(1) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable under subsection (a)(2) or (b)(2) with respect to the making of a political expenditure, all such persons shall be jointly and severally liable under such subsection with respect to such expenditure.

"(2) LIMIT FOR MANAGEMENT.—With respect to any 1 political expenditure, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $5,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

"(d) POLITICAL EXPENDITURE.—For purposes of this section—

"(1) IN GENERAL.—The term 'political expenditure' means any amount paid or incurred by a section 501(c)(3) organization in any participation in, or intervention in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

"(2) CERTAIN OTHER EXPENDITURES INCLUDED.—In the case of an organization which is formed primarily for purposes of promoting the candidacy (or prospective candidacy) of an individual for public office (or which is effectively controlled by a candidate or prospective candidate and which is availed of primarily for such purposes), the term 'political expenditure' includes any of the following amounts paid or incurred by the organization:

"(A) Amounts paid or incurred to such individual for speeches or other services.

"(B) Travel expenses of such individual.

"(C) Expenses of conducting polls, surveys, or other studies, or preparing papers or other materials, for use by such individual.

"(D) Expenses of advertising, publicity, and fundraising for such individual.

"(E) Any other expense which has the primary effect of promoting public recognition, or otherwise primarily accruing to the benefit, of such individual.

"(e) COORDINATION WITH SECTION 4945.—If tax is imposed under this section with respect to any political expenditure, such expenditure shall not be treated as a taxable expenditure for purposes of section 4945.

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) SECTION 501(c)(3) ORGANIZATION.—The term 'section 501(c)(3) organization' means any organization which (without regard to any political expenditure) would be described in section 501(c)(3) and exempt from taxation under section 501(a).

"(2) ORGANIZATION MANAGER.—The term 'organization manager' means—

"(A) any officer, director, or trustee of the organization (or individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization), and

"(B) with respect to any expenditure, any employee of the organization having authority or responsibility with respect to such expenditure.

"(3) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any political expenditure, recovering part or all of the expenditure to the extent recovery is possible, establishment of safeguards to prevent future political expenditures, and where full recovery is not possible, such additional corrective action as is prescribed by the Secretary by regulations.

"(4) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any political expenditure, the period beginning with the date on which the political expenditure occurs and ending on the earlier of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or

"(B) the date on which tax imposed by subsection (a)(1) is assessed."

(b) ABATEMENT OF FIRST TIER TAX IN CERTAIN CASES.—

(1) Section 4962 (relating to abatement of private foundation first tier taxes in certain cases) is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) QUALIFIED FIRST TIER TAX.—For purposes of this section, the term 'qualified first tier tax' means any first tier tax imposed by subchapter A or C of this chapter, except that such term shall not include the tax imposed by section 4941(a) (relating to initial tax on self-dealing).

"(c) SPECIAL RULE FOR TAX ON POLITICAL EXPENDITURES OF SECTION 501(c)(3) ORGANIZATIONS.—In the case of the tax imposed by section 4955(a), subsection (a)(1) shall be applied by substituting 'not willful and flagrant' for 'due to reasonable cause and not to willful neglect'."

(2) Subsection (a) of section 4962 is amended by striking out "any private foundation first tier tax" and inserting in lieu thereof "any qualified first tier tax".

(3) Subsections (a), (b), and (c) of section 4963 are each amended by striking out "4952," and inserting in lieu thereof "4952, 4955,".

(4) The section heading for section 4962 is amended by striking out "PRIVATE FOUNDATION".

(5) The table of sections for subchapter D of chapter 42 (as redesignated by this section) is amended by striking out "private foundation" in the item relating to section 4962.

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (e) of section 6213 is amended by striking out "4971" and inserting in lieu thereof "4955 (relating to taxes on political expenditures), 4971".

(2) Paragraph (1) of section 6501(l) is amended by striking out "plan, or trust" and inserting in lieu thereof "plan, trust, or other organization".

(3) Subsection (g) of section 6503 is amended by striking out "4951, 4952,".

(4) Section 6684 is amended by striking out "private foundations" and inserting in lieu thereof "private foundations and certain other tax-exempt organizations".

(5) Paragraphs (2) and (3) of section 7422(g) are each amended by striking out "4952," and inserting in lieu thereof "4952, 4955,".

(6) Subsection (b) of section 7454 is amended by striking out "the burden of proof" and inserting in lieu thereof "or whether an organization manager (as defined in section 4955(e)(2)) has 'knowingly' agreed to the making of a political expenditure (within the meaning of section 4955), the burden of proof".

(7) The chapter heading for chapter 42 is amended by striking out "BLACK LUNG BENEFIT TRUSTS" and inserting in lieu thereof "AND CERTAIN OTHER TAX-EXEMPT ORGANIZATIONS".

(8) The table of chapters for subtitle D of such Code is amended by striking out "black lung benefit trusts" in the item relating to chapter 42 and inserting in lieu thereof "and certain other tax-exempt organizations".

(9) The table of subchapters for chapter 42 is amended by striking out the item relating to subchapter C and inserting in lieu thereof the following:

"SUBCHAPTER C. Political expenditures of section 501(c)(3) organizations.

"SUBCHAPTER D. Abatement of first and second-tier taxes in certain cases."

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 10713. ADDITIONAL ENFORCEMENT AUTHORITY IN THE CASE OF FLAGRANT POLITICAL EXPENDITURES.

(a) AUTHORITY TO ENJOIN FLAGRANT POLITICAL EXPENDITURES.—

(1) IN GENERAL.—Subchapter A of chapter 76 (relating to civil actions by the United States) is amended by redesignating section 7409 as section 7410 and by inserting after section 7408 the following new section:

"SEC. 7409. ACTION TO ENJOIN FLAGRANT POLITICAL EXPENDITURES OF SECTION 501(c)(3) ORGANIZATIONS.

"(a) AUTHORITY TO SEEK INJUNCTION.—

"(1) IN GENERAL.—If the requirements of paragraph (2) are met, a civil action in the name of the United States may be commenced at the request of the Secretary to enjoin any section 501(c)(3) organization from further making political expenditures and for such other relief as may be appropriate to ensure that the assets of such organization are preserved for charitable or other purposes specified in section 501(c)(3). Any action under this section shall be brought in the district court of the United States for the district in which such organization has its principal place of business or for any district in which it has made political expenditures. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such organization.

"(2) REQUIREMENTS.—An action may be brought under subsection (a) only if—

"(A) the Internal Revenue Service has notified the organization of its intention to seek an injunction under this section if the making of political expenditures does not immediately cease, and

"(B) the Commissioner of Internal Revenue has personally determined that—

"(i) such organization has flagrantly participated in, or intervened in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, and

"(ii) injunctive relief is appropriate to prevent future political expenditures.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds on the basis of clear and convincing evidence that—

"(1) such organization has flagrantly participated in, or intervened in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, and

"(2) injunctive relief is appropriate to prevent future political expenditures,

the court may enjoin such organization from making political expenditures and may grant such other relief as may be appropriate to ensure that the assets of such organization are preserved for charitable or other purposes specified in section 501(c)(3).

"(c) DEFINITIONS.—For purposes of this section, the terms 'section 501(c)(3) organization' and 'political expenditures' have the respective meanings given to such terms by section 4955."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 76 is amended by striking the item relating to section 7409 and inserting in lieu thereof the following:

"Sec. 7409. Action to enjoin flagrant political expenditures of section 501(c)(3) organizations.
"Sec. 7410. Cross references."

(b) AUTHORITY TO MAKE IMMEDIATE ASSESSMENTS.—

(1) IN GENERAL.—Part I of subchapter A of chapter 70 (relating to termination of taxable year) is amended by adding at the end thereof the following new section:

"SEC. 6852. TERMINATION ASSESSMENTS IN CASE OF FLAGRANT POLITICAL EXPENDITURES OF SECTION 501(c)(3) ORGANIZATIONS.

"(a) AUTHORITY TO MAKE.—

"(1) IN GENERAL.—If the Secretary finds that—

"(A) a section 501(c)(3) organization has made political expenditures, and

"(B) such expenditures constitute a flagrant violation of the prohibition against making political expenditures,

the Secretary shall immediately make a determination of any income tax payable by such organization for the current or immediately preceding taxable year, or both, and shall immediately make a determination of any tax payable under section 4955 by such organization or any manager thereof with respect to political expenditures during the current or preceding taxable year, or both. Notwithstanding any other provision of law, any such tax shall become immediately due and payable. The Secretary shall immediately assess the amount of tax so determined (together with all interest, additional amounts, and additions to the tax provided by law) for the current year or the preceding taxable year, or both, and shall cause notice of such determination and assessment to be given to the organization or any manager thereof, as the case may be, together with a demand for immediate payment of such tax.

"(2) COMPUTATION OF TAX.—In the case of a current taxable year, the Secretary shall determine the taxes for the period beginning on the 1st day of such current taxable year and ending on the date of the determination under paragraph (1) as though such period were a taxable year of the organization, and shall take into account any prior determination made under this subsection with respect to such current taxable year.

"(3) TREATMENT OF AMOUNTS COLLECTED.—Any amounts collected as a result of any assessments under this subsection shall, to the extent thereof, be treated as a payment of income tax for such taxable year, or tax under section 4955 with respect to the expenditure, as the case may be.

"(4) SECTION INAPPLICABLE TO ASSESSMENTS AFTER DUE DATE.—This section shall not authorize any assessment of tax for the preceding taxable year which is made after the due date of the organization's return for such taxable year (determined with regard to any extensions).

"(b) DEFINITIONS AND SPECIAL RULES.—

"(1) DEFINITIONS.—For purposes of this section, the terms 'section 501(c)(3) organization', 'political expenditure', and 'organization manager' have the respective meanings given to such terms by section 4955.

"(2) CERTAIN RULES MADE APPLICABLE.—The provisions of sections 6851(b), 6861(f), and 6861(g) shall apply with respect to any assessment made under subsection (a), except that determinations under section 6861(g) shall be made on the basis of whether the requirements of subsection (a)(1)(B) of this section are met in lieu of whether jeopardy exists."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Clause (v) of section 6091(b)(1)(B) is amended by striking out "section 6851(a)" and inserting in lieu thereof "section 6851(a) or 6852(a)".

(B) Paragraph (1) of section 6211(b) is amended by striking out "section 6851" and inserting in lieu thereof "section 6851 or 6852".

(C) Paragraph (1) of section 6212(c) is amended by striking out "section 6851" and inserting in lieu thereof "section 6851 or 6852".

(D) Subsection (a) of section 6213 is amended by striking out "section 6851 or section 6861" and inserting in lieu thereof "section 6851, 6852, or 6861".

(E) Section 6863 is amended—

(i) by striking out "6851" in subsection (a) and inserting in lieu thereof "6851, 6852,",

(ii) by striking out "6851 or 6861" in subsection (b)(3)(A) and inserting in lieu thereof "6851, 6852, or 6861", and

(iii) by striking out "6851(a) or 6861(a)" and inserting in lieu thereof "6851(a), 6852(a), or 6861(a)".

(F) Section 7429 is amended—

(i) by striking out "6851(a)," each place it appears and inserting in lieu thereof "6851(a), 6852(a),", and

(ii) by striking out "6851," each place it appears and inserting in lieu thereof "6851, 6852,".

(G) Paragraph (3) of section 7611(i) is amended by striking out "or section 6861" and inserting in lieu thereof "section 6852 relating to termination assessments in case of political expenditures of section 501(c)(3), or 6861".

(H) The table of sections for part I of subchapter 70 is amended by adding at the end thereof the following new item:

"Sec. 6852. Termination assessments in case of flagrant political expenditures of section 501(c)(3) organizations."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 10714. TAX ON DISQUALIFYING LOBBYING EXPENDITURES.

(a) GENERAL RULE.—Chapter 41 (relating to public charities) is amended by adding at the end thereof the following new section:

"SEC. 4912. TAX ON DISQUALIFYING LOBBYING EXPENDITURES OF CERTAIN ORGANIZATIONS.

"(a) TAX ON ORGANIZATION.—If an organization to which this section applies is not described in section 501(c)(3) for any taxable year by reason of making lobbying expenditures, there is hereby imposed a tax on the lobbying expenditures of such organization for such taxable year equal to 5 percent of the amount of such expenditures. The tax imposed by this subsection shall be paid by the organization.

"(b) ON MANAGEMENT.—If tax is imposed under subsection (a) on the lobbying expenditures of any organization, there is hereby imposed on the agreement of any organization manager to the making of any such expenditures, knowing that such expenditures are likely to result in the organization not being described in section 501(c)(3), a tax equal to 5 percent of the amount of such expenditures, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this subsection shall be paid by any manager who agreed to the making of the expenditures.

"(c) ORGANIZATIONS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to any organization which was exempt (or was determined by the Secretary to be exempt) from taxation under section 501(a) by reason of being an organization described in section 501(c)(3).

"(2) EXCEPTIONS.—This section shall not apply to any organization—

"(A) to which an election under section 501(h) applies,

"(B) which is a disqualified organization (within the meaning of section 501(h)(5)), or

"(C) which is a private foundation.

"(d) DEFINITIONS.—

"(1) LOBBYING EXPENDITURES.—The term 'lobbying expenditure' means any amount paid or incurred by the organization in carrying on propaganda, or otherwise attempting to influence legislation.

"(2) ORGANIZATION MANAGER.—The term 'organization manager' has the meaning given to such term by section 4955(f)(2).

"(3) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable under subsection (b), all such persons shall be jointly and severally liable under such subsection."

(b) BURDEN OF PROOF.—Subsection (b) of section 7454 (as amended by this Act) is amended by striking out "the burden of proof" and inserting in lieu thereof ", or whether an organization manager (as defined in section 4912(d)(2)) has 'knowingly' agreed to the making of disqualifying lobbying expenditures within the meaning of section 4912(b), the burden of proof".

(c) TECHNICAL AMENDMENT.—Paragraph (1) of section 6501(l) is amended by striking out "by chapter 42 (other than section 4940)"

and inserting in lieu thereof "by section 4912, by chapter 42 (other than section 4940),".

(d) CLERICAL AMENDMENT.—The table of sections for chapter 41 is amended by adding at the end thereof the following new item:

"Sec. 4912. Tax on disqualifying lobbying expenditures of certain organizations."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

I certify this to be a correct printing of the hand enrollment of Public Law 100-203 pursuant to section 8004 of this Act.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution and a concurrent resolution of the House of the following titles:

H.J. Res. 436. Joint Resolution providing for the convening of the 2d session of the 100th Congress, and

H. Con. Res. 235. Concurrent resolution providing for the sine die adjournment of the 1st session of the 100th Congress.

The message also announced that pursuant to Public Law 99-624, the Chair on behalf of the President pro tempore, appoints Mr. HEFLIN, Mr. EXON, and Mr. DOLE, to the Eisenhower Centennial Commission.

The message also announced that pursuant to Public Law 81-754, as amended by Public Law 93-536, the Chair on behalf of the Vice President, appoints Mr. SARBANES to the National Historical Publications and Records Commission.

REPORT OF COMMITTEE TO INFORM THE PRESIDENT

The SPEAKER. The Chair will receive a report from the committee.

Mr. FOLEY. Mr. Speaker, your committee to inform the President is ready to report.

Mr. Speaker, the distinguished gentleman from Illinois [Mr. MICHEL] and I have, upon instructions and orders from the House, waited upon the President and informed him the House stands ready to adjourn and have asked the President if he has any further communications to submit to the House. The President has informed your committee that he has no further communications to make to the House of Representatives but extends to all Members of the House his thanks and best wishes for the holiday season.

ENROLLED BILLS AND A JOINT RESOLUTION SIGNED ON CALENDAR DAY DECEMBER 22, 1987

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1777. An act to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes;

H.R. 2945. An act to amend title 38, United States Code, to provide a 4.2-percent cost-of-living adjustment in the rates of Veterans' Administration disability compensation for veterans and dependency and indemnity compensation for survivors and an increase in the number of vocational-training evaluations of veteran-pensioners; and to amend the Veterans' Job Training Act, to extend the deadline for veterans to apply for participation;

H.R. 3545. An act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988; and

H.J. Res. 395. Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and joint resolutions of the House of the following titles:

H.R. 403. An act to establish the El Malpais National Monument and the El Malpais National Conservation Area in the State of New Mexico, to authorize the Masau Trail, and for other purposes;

H.R. 1777. An act to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes;

H.R. 2583. An act to authorize additional appropriations for the San Francisco Bay National Wildlife Refuge;

H.R. 2945. An act to amend title 38, United States Code, to provide a 4.2-percent cost-of-living adjustment in the rates of Veterans' Administration disability compensation for veterans and dependency and indemnity compensation for survivors and an increase in the number of vocational-training evaluations of veteran-pensioners; and to amend the Veterans' Job Training Act to extend the deadline for veterans to apply for participation;

H.R. 3545. An act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988;

H.J. Res. 376. Joint resolution to designate the Clarks Hill Dam, Reservoir, and Highway transversing the Dam on the Savannah River, Georgia and South Carolina, as the J. Strom Thurmond Dam, Reservoir, and Highway;

H.J. Res. 395. Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes; and

H.J. Res. 430. Joint resolution calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses or fiances in the United States.

SINE DIE ADJOURNMENT

Mr. FOLEY. Mr. Speaker, in accordance with House Concurrent Resolution 235, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. In accordance with the provisions of House Concurrent Resolution 235, the Chair declares the 1st session of the 100th Congress adjourned sine die.

Thereupon (at 4 o'clock and 11 minutes p.m.), pursuant to House Concurrent Resolution 235, the House adjourned.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[December 22, 1987 (legislative day, December 21), 1987]

2612. A letter from the Deputy Assistant Secretary (Logistics), Department of the Air Force, transmitting notice of the decision to convert to contractor performance the aircraft maintenance function at Columbus Air Force Base, MS, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); to the Committee on Armed Services.

2613. A letter from the Deputy Assistant Secretary (Logistics), Department of the Air Force, transmitting notice of the decision to convert to contractor performance the equipment maintenance function at Sheppard Air Force Base, TX, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); to the Committee on Armed Services.

2614. A letter from the Chairman, Board of Trustees, Harry S. Truman Scholarship Foundation, transmitting the annual report for 1986-87, pursuant to 20 U.S.C. 2012(b); to the Committee on Education and Labor.

2615. A letter from the Secretary of the Treasury, transmitting a report on the use of tax deductions for donations of conservation easements; to the Committee on Ways and Means.

2616. A letter from the Comptroller General of the United States, transmitting a report on the availability of brokers' services in the secondary market for Government securities (GAO/GGD-88-8), pursuant to Public Law 99-571, section 104(c) (100 Stat. 3222); jointly, to the Committees on Government Operations and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[December 22 (legislative day, December 21), 1987]

Mrs. BOGGS. Commission on the Bicentenary. Annual report for the year 1987 of the Commission on the Bicentenary of the U.S. House of Representatives (Rept. 100-499). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[December 22 (legislative day, December 21), 1987]

By Mr. LaFALCE:

H.R. 3833. A bill to amend the Federal Trade Commission Act to remove the restriction on the authority of the Federal Trade Commission over the business of insurance; to the Committee on Energy and Commerce.

By Mr. MARLENEE (for himself, Mr. CRAIG, and Mr. HUNTER):

H.R. 3834. A bill to protect the right to carry out a lawful hunt; to the Committee on Merchant Marine and Fisheries.

By Mr. MILLER of Washington (for himself and Mr. CHANDLER):

H.R. 3835. A bill to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies, and for other purposes; to the Committee on Small Business.

By Mr. OWENS of Utah:

H.R. 3836. A bill to amend the Hazardous Materials Transportation Act to prescribe procedures for the transport of nuclear materials; jointly, to the Committee on Public Works and Transportation, Energy and Commerce, and Interior and Insular Affairs.

By Mr. RIDGE (for himself and Mr. KANJORSKI):

H.R. 3837. A bill to enhance the competitiveness of commercial banks and bank holding companies in the securities markets; jointly, to the Committee on Banking, Finance and Urban Affairs and Energy and Commerce.

By Mr. BEREUTER (for himself, Mr. DAUB, and Mrs. SMITH of Nebraska):

H.R. 3838. A bill to designate the Federal Building located at 215 North 17th Street in Omaha, NE, as the "Edward Zorinsky Federal Building"; to the Committee on Public Works and Transportation.

By Mr. ANDERSON:

H.R. 3839. A bill to authorize the U.S. Government to meet its obligations under the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America; to the Committee on Merchant Marine and Fisheries.

By Mr. THOMAS A. LUKEN:

H.R. 3840. A bill to amend title 23, United States Code, to require States to implement a uniform system for handicapped parking as a condition for approval of any State highway safety program; to the Committee on Public Works and Transportation.

By Mr. FOLEY:

H.J. Res. 436. Joint resolution providing for the convening of the second session of the 100th Congress; considered and passed.

By Mr. WHITTEN:

H.J. Res. 437. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes; to the Committee on Appropriations.

By Mr. FOLEY:

H. Con. Res. 235. Concurrent resolution providing for the sine die adjournment of the first session of the 100th Congress; considered and agreed to.

H. Res. 345. Resolution providing for the committee to notify the President of completion of business; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII,

[December 22 (legislative day of December 21), 1987]

260. The SPEAKER presented a memorial of the senate, State of Pennsylvania, relative to imported crude oil and refined petroleum products; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[December 22 (legislative day, December 21), 1987]

H.R. 107: Mr. SUNDQUIST.

H.R. 639: Mr. LELAND, Mr. WHEAT, Mr. BATES, Mr. DONNELLY, Mr. OWENS of New York, Mr. SCHUMER, Mr. BORSKI, Mr. WAXMAN, Mr. BRUCE, Mr. ALEXANDER, Mr. DURBIN, Mr. MARKEY, Mr. ECKART, Mr. MAVROULES, Mr. HAWKINS, Mr. GARCIA, Mr. BOSCO, Mr. WISE, Mr. CARR, Ms. OAKAR, Mr. MURPHY, Mr. KASICH, and Mrs. BENTLEY.

H.R. 911: Mr. MACK, Mr. MAVROULES, and Mr. SHAYS.

H.R. 1373: Mr. WILLIAMS.

H.R. 3057: Mr. WALGREN, Mr. WISE, Mr. MURPHY, and Mr. KOSTMAYER.

H.R. 3193: Mr. LEVIN of Michigan.

H.R. 3485: Mr. TRAXLER.

H.R. 3486: Mr. STUDDS, Mr. DWYER of New Jersey, Mr. BORSKI, Mr. VENTO, Mr. HOWARD, Mr. NEAL, and Mr. DE LUGO.

H.R. 3774: Mr. DAVIS of Illinois, Mr. GRANT, Mr. HOCHBRUECKNER, Mr. GLICKMAN, Mr. EMERSON, and Mr. OXLEY.

H.R. 3782: Mr. FAUNTROY and Mr. LEHMAN of California.

H.R. 3814: Mr. BEVILL and Mr. BORSKI.

H.J. Res. 405: Mr. RIDGE and Mr. FORD of Michigan.

H.J. Res. 416: Mr. ANNUNZIO, Mr. RODINO, Mr. BERMAN, Mr. ACKERMAN, Mr. STUDDS, Mrs. BYRON, Mr. FRANK, Mr. YATRON, Ms. SLAUGHTER of New York, Mr. STRATTON, Mr. COLEMAN of Texas, Mrs. BOXER, Mr. CONYERS, Mr. RANGEL, Mr. GRAY of Pennsylvania, Mrs. MORELLA, Mr. HYDE, Mr. TORRES, Mr. DYMALLY, Mr. FAWELL, Mr. LEHMAN of Florida, Mr. WEISS, Mr. DIXON, Mr. HOYER, Mr. CONTE, Mr. NEAL, Mr. KEMP, Mr. OWENS of New York, Mr. SMITH of Florida, Mr. EDWARDS of California, Mr. RICHARDSON, Mr. BROWN of California, and Ms. KAPTUR.

H.J. Res. 429: Mr. BONIOR of Michigan, Mr. HOWARD, Mr. LAGOMARSINO, Mr. HOYER, Mr. FEIGHAN, Mr. SOLOMON, Mr. RITTER, and Ms. SLAUGHTER of New York.

H. Res. 271: Mr. BATEMAN and Mr. MCEWEN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[December 22 (legislative day, December 21), 1987]

H.R. 2724: Mr. RIDGE.

EXTENSIONS OF REMARKS

LUSO-AMERICAN DEVELOPMENT FOUNDATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues an exchange of letters I had with the Agency for International Development regarding the work and programs supported by the Luso-American Development Foundation.

The foundation, now over 2 years old, is a privately chartered Portuguese institution under Portuguese law. The foundation seeks to advance Portuguese economic and social development through linkage and cooperation between Portugal and United States in the scientific, cultural, educational, commercial, and entrepreneurial fields.

United States economic assistance to Portugal has helped to capitalize the foundation. As of August 1987, the endowment of the foundation totaled $112.8 million and roughly $14 million had been disbursed.

This Development Foundation represents an important centerpiece of the United States-Portugese relationship and its progress and development is critical for the future of our ties with this ally.

My letter to AID of September 29, 1987, and AID's reply of December 17, 1987, follows:

COMMITTEE OF FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 29, 1987.

Mr. JAY MORRIS,
Acting Administrator, Agency for International Development,
Washington, DC.

DEAR MR. MORRIS: As the fiscal year ends, I would like a report on the Luso-American Development Foundation which now has been in operation for over two years.

I would like to know what level of capitalization the Foundation has reached, what funds have been spent on projects, how much has been obligated and how much has been expended. Please also send a recent financial statement of the Foundation including a breakdown of the budget and the projects for which funding has been committed. Your evaluation of the Foundation's progress in fulfilling its mandate as well as an outline of its short, medium and long-term strategy would also be useful.

In addition, I would like to know in general terms the process for review of proposals submitted to the Foundation for funding, the types of requests by general subject and category, the length of the review process, the criteria used in approval or denial and what communication during the review process there is with those submitting proposals.

I appreciate your consideration of these questions and believe that this material can be helpful in the expected review process of our assistance programs which are to occur in the coming months.

I look forward to hearing from you.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY, AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, DC, December 17, 1987.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter requesting information on the Luso-American Development Foundation (LADF). I regret the delay in our response. It was necessary to solicit assistance from the Embassy/A.I.D. in Portugal.

At the outset one should understand that the Government of Portugal (GOP) funds the Foundation's endowment. The Foundation is a privately chartered Portuguese institution under Portuguese law. To date, funds used by the GOP to make contributions to this institution have been derived from cash transfer grants provided under the A.I.D. program. Both the USG and the GOP are extremely careful about ensuring the sovereignty and independence of this Portuguese institution. Thus, A.I.D. is not directly involved with the management of the Foundation, but does monitor its development. The American Ambassador to Portugal is a member of LADF's Directive Council.

While the Luso-American Development Foundation is an independent private organization, I would note that its activities benefit U.S. interests by seeking to advance Portuguese economic and social development through linkage and cooperation between Portugal and the United States in the scientific cultural, educational, commercial and entrepreneurial fields. To further these goals, leading U.S. companies have joined the New York-based Luso American Business Council which assists LADF in promoting joint ventures, investments and trade between the two countries.

We are enclosing a report on LADF provided by USAID-Lisbon. From this report and other information available from USAID-Lisbon, we have endeavored to address your questions.

LEVEL OF CAPITALIZATION

As stated in the enclosed report, LADF had received, as of September 30, 1987, approximately $99 million from the GOP. The value of the Foundation's endowment increased by $13.8 million through earnings and appreciation of its portfolio through August 31, 1987, thereby totalling $112.8 million. Approximately $14 million has been disbursed, of which some $10.8 million has been provided for projects and the remainder for Foundation costs.

PROJECT OBLIGATIONS AND EXPENDITURES

The Foundation has received a total of 1021 requests for financial support as of September 30, 1987. LADF has approved 346 projects valued at approximately $21.3 million and disbursed some $10.8 million for project activities. The Foundation has greatly accelerated its activities in CY 87. While only 492 requests were received and 138 projects approved during the first 18 months between June 1985 and December 1986, 529 were received and 211 approved in the past nine months.

FINANCIAL STATEMENT

An independent audit was conducted by the accounting firm Price-Waterhouse in April 1987. Although a summary was to be included in the Foundation's first annual report, the preparation of the annual report has regrettably been delayed. It should be published by late January and will be forwarded to you when it is received. The 1987 annual report is expected by June 1988.

TYPES OF REQUESTS

The types of requests generally submitted to the Foundation for support can be categorized in the following areas of emphasis: Private Sector Development, Science and Technology, Education, Public Administration and Regional Development and Culture. We understand that priority is initially being given to the first three program areas.

PROJECT REVIEW PROCEDURE

The project review process is an internal Foundation matter and obviously varies according to the complexity, magnitude and subject matter of the request. We understand the Foundation keeps all applicants appropriately informed during the two to six month proposal processing period. A.I.D. has reviewed and found acceptable the procedures outlined in the Foundation's documents.

CRITERIA USED FOR APPROVAL OF PROJECTS

The criteria for project approval are clearly outlined in Foundation documents as the following:

Projects should make a signficant contribution to Portugal's economic development. Projects should be realistic, with clearly defined objectives which are included within the Foundation's areas of emphasis.

The Foundation will support projects which contain innovative approaches, giving priority to projects involving cooperation among Portuguese organizations or collaboration between Portuguese and American institutions. Portuguese institutions will normally be responsible for the administration of projects.

Support for a project normally will not exceed three years.

The Foundation generally will not finance more than 50% of the costs of a project, except for some research activities.

In the field of private sector development, the Foundation will give preference to financing projects through financial intermediaries, trade associations, and cooperatives, etc.

Financing of equipment, training seminars and conferences, etc., normally will be con-

sidered only when part of a comprehensive project.

The Foundation will not support current operating costs, charitable activities, or building construction.

The Foundation will not support partisan political activities.

FOLLOWUP

Consideration is being given by the Foundation to the holding of a seminar to focus upon various models to obtain insights for future assistance relationships with advanced developing countries. Such a seminar should provide a useful opportunity to comment appropriately on the Foundation's mandate and on its short, medium and long-term strategy.

We appreciate your interest in the Luso-American Development Foundation's activities. Annual reports and current audits will be available shortly which will provide further information about LADF activities, management and finances. We will ensure that copies of those documents are forwarded to you. If we can be of any further assistance please let us know.

Sincerely,

JAY F. MORRIS.

Enclosure.

USAID LISBON REPORT ON THE LUSO-AMERICAN DEVELOPMENT FOUNDATION

PROJECT REQUESTS

As of September 1987, the Foundation had received 1021 requests, as compared with 492 at the end of December 1986. Thus, the Foundation received more requests in the past nine months than it received in the 18 month period from its beginning in June 1985 through December 1986. This is evidence that existence of the Foundation is widely known throughout Portugal and that demand for Foundation assistance continues to grow.

APPROVALS

As of September 30, 1987, the Foundation had approved 346 projects with a total value of $21.4 million, at the then current escudo exchange rate of 142.95 to $1.00 (it should be noted that Foundation projects are expressed in escudos, so the dollar value of approvals and disbursements will be affected somewhat by changes in exchange rates). The 211 projects approved in the first nine months of 1987 represent 1½ times the number of projects approved during the first 18 months of operation.

LADF's goal of committing 75 percent of its funds to the three areas of major emphasis—private sector development, education and science and technology—is being exceeded as shown by the following table:

	No. of projects received	No. of projects approved	Value of approved projects in dollars	Percent of total value
Private sector	196	45	6,634,864	31
Education	260	86	4,275,276	20
Science and technology	247	115	6,085,084	28
Public administration and regional development	101	36	3,408,856	16
Culture	190	60	856,457	5
Others	27	4	33,967	
Totals	1,021	346	21,294,504	100

The Foundation continues to receive large numbers of requests for small-scale activities. Of 349 approved projects, 151 were for short-term training, visits, workshops, etc. These amounted to 43.2 percent of the number of projects approved, but only 3.2 percent of funds committed. There has been a tendency for the Foundation's small professional staff and the Executive Council to be submerged by such requests. The Foundation recently took steps to streamline consideration of these proposals.

In order to further illustrate the areas of involvement, the following list of projects approved in each of the five fields supported by the Foundation are outlined below:

	Dollars
Private sector:	
Risk capital societies	419,727
Loan fund for young entrepreneurs	629,591
Exponer—exposition fair	1,836,306
Education:	
School of Biotechnology/UC Porto	1,322,141
Master's Program in animal product	237,845
Food Technology Program	310,948
Science and technology:	
Control of Japanese beetle	198,531
Control of forest fires	1,049,318
Freezing of fruits and vegetables	304,912
Public administration and regional development:	
Agricultural policy and technology in Northwestern Portugal	281,504
Merec—Municipal management	486,464
Azores—geothermal energy	448,066
Culture:	
Cutileiro Design Center	34,977
Wilson Center Conference on Portugal	50,535
V. Da Motta International Piano Contest	104,932

As of September 30, the Foundation had received $99,195,000 from the Government of Portugal which, in turn, received cash transfers in this amount from the Economic Support Fund. This amounted to $18.8 million less than was originally anticipated, because of budget reductions pursuant to Gramm-Rudman-Hollings legislation. The value of the Foundation's endowment had increased $13.8 million through earnings and appreciation in the value of their portfolios through August 31, 1986.

The total $112.9 million is being managed by both foreign and Portuguese financial institutions. Because of continued devaluation of the dollar and the excellent performance of the Portuguese economy over the past years, the Foundation's operational plan called for 30-35 percent of its endowment to be kept in Portugal by the end of 1987.

It should be noted that most of the Foundation's expenditures are in escudos. As of the end of September, 28.5 percent of the Foundation's endowment and earnings was being managed by Portuguese financial institutions.

During this initial period, the Foundation had pursued a policy of dividing its investment funds among five major non-Portuguese banks (Riggs, Manufacturer's Hanover, Citibank, Chase and Barclays), with the intention of evaluating results and shifting funds to the best performers. Similarly, the Foundation is judging the results achieved by major Portuguese banks and investment groups which have been handling the Foundation's escudo accounts.

As mentioned earlier, the Portuguese economy has been strong and the stock market particularly ebullient. Early in October the Foundation (either lucky or prescient) decided to sell some of its shares.

It sold for 502.6 million escudos a number of shares, which had been acquired by local financial institutions over the past year at a cost of 139.7 million escudos. Thus, the Foundation realized a profit of over 2.5 times the purchase price of these shares. It should be pointed out that these were not speculative investments—but increases in the Portuguese stock market over the value have been astronomical—at least until the current correction.

While LADF invests its escudo funds primarily to achieve earnings and appreciation of capital, it also favors investment of firms which will contribute significantly to Portugal's economic growth. For example, it owns shares in an investment bank, leasing companies, and companies developing Portugal's money markets.

The Foundation continues to have a high rate of disbursements to project approvals, particularly when one considers that some projects will disburse over 3 or more years. As of September 30, $10.8 million had been disbursed of $21.4 million in approved projects—i.e., project disbursements amounted to slightly over 50 percent of projects approved.

Of 306 major projects approved three or more months previously, only 18 had no disbursements. Thus, it appears that projects supported by the Foundation are ready for prompt implementation.

The full-time staff of the Foundation increased from 22 on December 31, 1986 to 25 on September 30, 1987. The increase consisted of two secretaries and a receptionist/telephone operator. Even with extensive use of computers, increase in the workload and inadequacies of Lisbon's telephone system necessitated these additions. When the Foundation moves to its permanent quarters (in approximately one year) some additions to staff—particularly assistant program directors—are likely to occur.

Operating costs (administration and personnel expenses) remained low, amounting to 8.5 percent of the value of approved projects. While these costs have increased somewhat over earlier figures, they are still quite low compared to similar organizations.

The first phase of construction of the Foundation's permanent quarters should be completed by the end of 1987, and the second and final phase is scheduled to be completed in May or June of 1988.

Joint meetings of the Directive and Executive Councils continue to take place approximately once a month, while the Executive Council meets on an average of once per week. Meetings of the five members of the Advisory Council resident in Portugal take place about every two months. However, the American members of the Advisory Council have not met. Portuguese members of the Advisory Council have participated in evaluations of projects financed by the Foundation. The appropriate role of the Advisory Council has not yet been fully defined.

Price-Waterhouse completed its audit of the Foundation in April 1987 and had no negative finding. Weaknesses identified in a preliminary audit had been corrected by the time the final audit was conducted. A summary of the audit will be included in the first annual report. Unfortunately, it has taken a very long time to prepare a final version of the first annual report, due out soon. The annual report for 1987 should be published by June 1988. In addition, a copy of the Price-Waterhouse Report on examination of the financial statements as of December 31, 1986 is available from USAID/Lisbon.

The Foundation has a wide variety of financial administration internal reports to

ensure that current information is available to the Directive and Executive Councils.

REPORT ISSUED ON RELIGIOUS DISCRIMINATION IN NORTHERN IRELAND

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. FISH. Mr. Speaker, as the prime sponsor of H.R. 722, the Northern Ireland Fair Employment Practices Act, I would like to inform my colleagues of a recent report released by the British Standing Advisory Commission on Human Rights. This Commission was established by Parliament for the purpose of advising the Secretary of State for Northern Ireland on the adequacy and effectiveness of the law in preventing discrimination on the ground of religious belief or political affiliation, and providing redress for those who have been discriminated against.

I recently met with the Honorable Kevin McNamara, Member of Parliament, the Labor Party spokesman on Northern Ireland in Parliament. He expressed his strong support for the Commission's report, entitled "Religious and Political Discrimination and Equality of Opportunity in Northern Ireland," and urged the support of the Congress. In many ways, this report goes further than the MacBride Principles. It calls for all companies in Northern Ireland, not just United States entities, to adhere to fair employment guidelines. We now await the official response by the British Government, to be issued in the form of a government white paper.

This should not suggest that the MacBride campaign is over. Efforts to promote the MacBride principles in the United States, specifically H.R. 722, have assured that the issue of religious discrimination is addressed by the British Parliament. Support should be given in tandem to my bill and the Commission's recommendations to Parliament, if the employment practices in this region are to be corrected.

A summary of the Commission's recommendations can be obtained from the Ad Hoc Committee on Irish Affairs, Room 2428, Rayburn House Office Building.

AGRICULTURAL CREDIT ACT OF 1987

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. FRENZEL. Mr. Speaker, I rise today in restrained support of the recently passed Agricultural Credit Act of 1987.

Over 5 years of plummeting farm income and land values have wreaked havoc on the entire agricultural sector. The dire result has impacted not only the farmers themselves, but also the creditors on whom they rely.

Farm Credit Services [FCS] accounts for over one-third of all farm loans made in this country. The system's financial health has been severely impaired over the past few years as the financial health of America's agricultural sector has steadily deteriorated. FCS losses since 1985 alone total $4.8 billion. Further it is estimated that of the entire system's loan portfolio of $51 billion, nearly one-fourth falls into the high risk category of "questionable loans."

Without Government assistance, it is estimated that 11 of the 37 institution banks would have faced insolvency within a year. If this were allowed to occur the consequences would be ruinous. Entire stockholder investments would be irrevocably lost. Most likely, however, it would exacerbate the problem of capital flight from system institutions as stockholders scramble to retrieve their hard-earned money. Further, the reverberations would extend beyond the immediate stockholders, throughout the agricultural sector. Needed credit would become more scarce. thereby driving up the cost of credit to other borrowers.

Indeed, this is a distressing scenario. And one which isn't all that far from the current state of affairs. That something needed to be done is not the question. Rather the question centers on what form the assistance is to take place. It is here that opinions diverge.

Last year Congress passed legislation intended to help the ailing FCS. The legislation allowed FCS banks to extend their losses over 20 years. This is contrary to general accepted accounting rules. This rule was not only bad policy, it was a Band-Aid approach to a very severe problem.

The final farm credit assistance package passed Congress on Friday, December 18. This legislation, although not perfect, was a vast improvement over the original bill—H.R. 3030—passed by Congress earlier this summer. I was compelled to vote against that bill for several reasons.

Specifically, I had trouble with the inclusion of a secondary market. I do not think that the inclusion of a secondary market will help those most in need of assistance, the financially strapped farmer who isn't able to obtain needed credit for operation. I also had trouble with the method by which the House version proposed to help the ailing FCS. They proposed selling off Government assets and if needed, a direct Treasury infusion. Finally, I had trouble with the House version on restructuring. The House bill was much more strict in its requirement of restructuring FCS institutions. In some instances, the merger of district institutions was made mandatory, without the requirement of stockholder votes.

On Friday, December 18, Congress passed the conference report on H.R. 3030 by an overwhelming margin. I was among those who voted for the conference report. Although the legislation still contained the inclusion of the secondary market, it did adopt strict reporting and underwriting standards. Further, the bill adopted almost entirely, the Senate language on financing the FCS assistance. This language, in contrast to the House version, stipulates that the assistance will be provided by selling 15-year bonds. The interest on these bonds will be born by the Government the first 5 years, shared with FCS institutions the second 5, and born entirely by FCS institutions the last 5 years.

In conclusion, the vast improvement of the conference report over the original House version, coupled with the urgency of passing some form of assistance, obliged me to vote in favor of this legislation.

LEGAL JUSTICE SYSTEM IN NORTHERN IRELAND CRITICIZED BY KEY NEW YORK BAR ASSOCIATION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. BIAGGI. Mr. Speaker, in my capacity as chairman of the 188 member bipartisan ad hoc Congressional Committee for Irish Affairs, I wish to bring to the attention of my colleagues an important new study on the oft criticized legal justice system in Northern Ireland today.

The study was conducted by the City Bar Association of New York. Specifically its Committee on International Human Rights completed a 120-page study to fulfill its mission to study nations with troubled human rights records.

The study made a number of conclusions and recommendations. They indicated that there were too many juryless trials in Northern Ireland and they found a "compelling need" for the British to curtail the use of these in cases involving terrorism charges. At the center of this study are the so-called diplock courts which have been operating in Northern Ireland for most of the past two decades. These were established as emergency courts to help implement the emergency legislation to combat terrorism enacted in the early 1970's. They have continued and as time has gone along they have become even more repressive than when they began.

The bar association study calls for the introduction of three judge panels for cases where trials without a jury cannot be avoided. It calls for the elimination of the current stringent evidence standards for defendants who complain of coerced confessions.

I wish to commend the bar association and especially those directly responsible for this study, International Committee Chairman Alice H. Henkin, William E. Hellerstein, Robert B. McKay, and Peter R. Schlam. It is an important study described by the highly respected Irish Echo newspaper as—

One of the most thorough attempts by American Human rights lawyers to offer a critique of the courts of Northern Ireland based on international standards of justice.

There are several past and present policy considerations that bear directly on this study and the topic it focuses on. The first is the recently passed Extradition Treaty between the United States and the United Kingdom of Great Britain and Northern Ireland. At the center of the controversy which surrounded this treaty and which led to a delay in its ratification, was the criminal justice system in Northern Ireland to which an individual would be extradited. The concerns related to the absence of due process in the system. This study confirms many of the worst concerns

expressed by opponents and it is imperative that this study be given very serious consideration and serve as the basis for monitoring of the justice system in Northern Ireland by those with a concern for human, civil, and legal rights.

A second policy concern must be the issue of continued United States economic aid to Ireland and Northern Ireland. We are nearing a decision on whether to extend this aid beyond the current fiscal year. The House has already voted to extend it through fiscal year 1989 at the current $35 million level. However it is important to note that there are critical conditions associated with this legislation including the President having to certify to Congress each year that the aid is furthering the cause of human rights in Northern Ireland. It would seem to be that reforms in the legal justice system in Northern Ireland must be central to any certification now and in the future with respect to economic aid.

I wish to enclose in the RECORD a newspaper article from the Irish Echo discussing the city bar association study. As well as one from the New York Times.

[From the Irish Echo, Dec. 19, 1987]

CITY BAR ASSN. CRITICAL OF COURT SYSTEM IN N.I.

The City Bar Association of New York in a study released last week was highly critical of the legal justice system in Northern Ireland. The study said there were too many juryless trials and found a "compelling need" for the British to curtail the use of these in cases involving terrorism charges.

The study by the association's committee on international human rights recommended the introduction of three-judge panels for cases where trials without a jury cannot be avoided. It also proposed elimination of the current stringent evidence standards—harsher than those in other British courts—for defendants who complain of coerced confessions.

The inquiry into the Northern Ireland justice system was carried out by three members of the bar association, William E. Hellerstein, Robert B. McKay and Peter R. Schlam and the international committee's chairwoman, Alice H. Henkin. It was undertaken as part of the panel's role of sending study missions to nations with troubled human rights records.

The 120-page study is one of the more thorough attempts by American human rights lawyers to offer a critique of the courts of Northern Ireland based on international standards of justice.

It centered on the so-called Diplock Courts, in which one judge sits with no jury. This system has been criticized by lawyers and judges from several nations.

Recently, the Republic of Ireland has been pressing for changes in the system. However, British Prime Minister Margaret Thatcher has rejected the Dublin proposals.

Nationalist leaders on both sides of the border say Catholics cannot get a fair trial under the Diplock Court system. But, Mrs. Thatcher maintains that the severe measures are still needed because of continuing terrorist violence.

The report, based on a three-member study and visit earlier this year, found that the system, in which a single jurist serves as both judge and jury, "does conform to the requirements of the international standards on fair trial," even though it departs from "the standard norms of British justice."

The panel concludes, however, that various questionable conditions leave the British Government with an obligation to make substantial changes "with greater intensity, imagination and, indeed, courage, than it ever has."

In their study, the New York lawyers criticized the potential for reintroduction of the interment arrests without due process and the reliance in many one-judge trials on challenged confessions or uncoroborated informers which are more easily admitted as evidence than is normal under accepted common law.

Instead, the committee urged that the reliance on juryless trials for politically tinged cases be "greatly reduced" by narrowing the standing list of offenses now automatically requiring Diplock judges.

Many lawyers have complained that the Diplock authority has been unfairly used as a sweeping measure to deny non-political defendants trial by jury.

The bar association panel found that "terrorist activity still abounds" in a serious enough degree to justify some juryless trials. But the authorities were urged to replace the single-judge system with three-judge panels who would be required to produce a unanimous verdict for a conviction.

The study noted that the Republic of Ireland also uses juryless trials for charges of political violence, but these are before three-judge panels. Using the same type of tribunal would carry "great symbolic significance" for the nationalist Catholics of the North, the study said.

ULSTER JURY URGED BY NEW YORK BAR—STUDY FINDS COMPELLING NEED FOR PROVINCE TO USE PANEL IN CASES OF TERRORISM

(By Francis X. Clines)

LONDON, Dec. 8.—A study of Northern Ireland justice by the City Bar Association of New York has concluded there is a "compelling need" for the British authorities to curtail the use of trials without juries in cases involving terrorism charges.

The inquiry by association's committee on international human rights recommended the introduction of three-judge panels for cases where trials without a jury cannot be avoided. It also proposed elimination of the current stringent evidence standards—harsher than those in other British courts—for defendants who complain of coerced confessions.

The report, based on a three-member study and visit earlier this year, found that the system, in which a single jurist serves as both judge and jury, "does conform to the requirements of the international standards on fair trial," even though it departs from "the standard norms of British justice."

The panel concludes, however, that various questionable conditions leave the British Government with an obligation to make substantial changes "with greater intensity, imagination and indeed, courage, than it ever has.

STUDY BY 3 MEMBERS

The study was carried out by three members of the bar association, William E. Hellerstein, Robert B. McKay and Peter R. Schlam and the international committee's chairwoman, Alice H. Henkin, as part of the panel's role of sending study missions to nations with troubled human rights records.

The 120-page study was one of the more thorough attempts by American human rights lawyers to offer a critique of the courts of the embattled province based on international standards of justice.

It comes at a time of renewed controversy over the so-called Diplock system, which is named for the peer who recommended the severe court procedures at the height of paramilitary violence in 1972 when the jury system was considered dubious because of terrorist threat and sectarian prejudice.

Lately, the Irish Republic, which borders province, has been unsuccessfully urging changes in the judicial system, echoing the long standing complaint that members of the nationalist Catholic minority in Northern Ireland cannot obtain fair trials. Prime Minister Margaret Thatcher so far has rejected such changes, maintaining that the severe measures are still needed because of continuing terrorist violence.

ON INTERNMENT ARRESTS

In particular, the bar association study criticized the potential for reintroduction of internment arrests without due process and the reliance in many one-judge trials on challenged confessions, which are more easily admitted as evidence than is normal under accepted common law.

Instead, the panel urged that the reliance on juryless trials for politically tinged cases be "greatly reduced" by narrowing the standing list of offenses now automatically requiring Diplock judges.

Defense lawyers have long complained that the Diplock authority has been unfairly used as a sweeping measure to deny non-political defendants trial by jury. The bar association committee, warning that emergency measures can become permanently institutionalized, urged that the state Attorney General assume an affirmative obligation to justify in each case the need for trial without jury.

The bar committee found that "terrorist activity still abounds" in a serious enough degree to justify some juryless trials. But the authorities were urged to replace the single-judge system with three-judge panels who would be required to produce a unanimous verdict for a conviction.

In addition, the study recommended the elimination of the standing power of "extra-judicial detention"—police internment without due process—that British authorities retain but last used in 1972 for sweeping roundups of suspected activists in the outlawed Irish Republican Army.

The association study noted that the Irish Republic also uses juryless trials for charges of political violence, but these are before three-judge panels. Using the same collegial tribunal would carry "great symbolic significance" for the nationalist Catholics of the North, the study contends. The Thatcher Government has previously rejected this proposal.

AN EXAMPLE OF THE CREATIVITY OF UNIONS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. FRANK. Mr. Speaker, in a burst of wishful thinking, some people would like to believe that labor unions are about to pass from the American scene. Some unions have had rough times recently, because of international economic trends primarily, but the importance of responsible union activity has never been more clear to those who are familiar with the

facts. Labor unions provide for working men and women a wide and indispensible variety of services and support. And those who do not participate in the labor movement aren't always familiar with how broad that range can be.

One of the most innovative and important unions in America is the Amalgamated Clothing and Textile Workers Union, the result of a merger between two important unions, and one which has worked very hard to represent the legitimate interests of its workers while cooperating with the industries in which its workers are employed. One example of the creativity of the Amalgamated is the Amalgamated Bank. An article last week in the Wall Street Journal gives a good idea of the role that the bank plays, and it is important not only for what it says about this particular institution, but for the example it gives of the continued vibrancy of labor unions in America today.

I ask that the article be printed here.

The article follows:

[From the Wall Street Journal, Dec. 14, 1987]

LABOR LENDING: HOW A UNION SURVIVES IN BANKING BY PUSHING SERVICES OVER PROFITS—AMALGAMATED BANK PITCHES FREE CHECKING AND SHUNS RISK, THEN NEEDLES RIVALS, SLOW DANCE IN THE CONGA LINE

(By Robert L. Rise)

NEW YORK.—When Amalgamated Bank of New York introduced a free checking account last fall, it wasn't content to quietly inform its customers. The bank bought an ad opposite the editorial page in the New York Times and asked: "Why is free checking only for those who can afford to pay for it?"

The bank's inclination to tweak its big corporate rivals isn't surprising. Amalgamated is a union bank, founded in 1923 by the Amalgamated Clothing Workers and still owned by the 284,000 members of its successor, the Amalgamated Clothing and Textile Workers.

Heralded as the wave of the future by labor leaders earlier in the century, labor banking was a flop. Out of some 36 labor banks founded in the 1920s, only Amalgamated in New York and Brotherhood Bank & Trust in Kansas City, Kan., survive as labor-owned institutions.

Now, with some labor experts predicting a comeback in union membership and influence, Amalgamated provides one of the oldest examples of a kind of labor-owned business that may multiply. In the past several years, about half a dozen new labor banks have opened, and more are on the way. Like the clothing workers who started Amalgamated, other unions see a chance to own a bank friendly to their members' needs and find new investment outlets for their growing assets.

A ROGUE BANK

Amalgamated survived largely because its union owner insisted on conservative banking and professional management. In contrast, the Brotherhood of Locomotive Engineers set up banks across the country during the 1920s and quickly branched into securities and even Florida land development. Losses piled up, and the union eventually charged four of its officers with mishandling funds. By 1931, the engineers were out of the banking business.

Amalgamated has also benefited from being something of a rogue bank, loudly touting a consumer ethic and often de-emphasizing profits in favor of services. Its free checking account is only the latest evidence: Amalgamated claims to have pioneered the unsecured installment loan in the 1920s, lending money to borrowers with no collateral but a steady job. Three times a survey has named it the top bank for consumers in New York City. "They give me the best treatment," says Mike Garcia, an officer of the Leather Goods, Plastic and Novelty Workers' Union, who says he banks at Amalgamated because of its labor roots.

OVERLAPPING CONSTITUENCIES

Amalgamated has reported 44 consecutive years of profit and has grown to $1.47 billion in assets by serving two overlapping constituencies: middle-class consumers and organized labor. Now, the union-owned bank is exploring other ways to use its labor ties and financial muscle to expand in new areas.

Earlier this year, Amalgamated teamed up with Metropolitan Life Insurance Co. in a proposal to offer a comprehensive money-management program for the AFL-CIO's 14.5 million members. On a smaller but no less innovative scale, Amalgamated is helping three New York locals of the Bridge, Structural and Ornamental Iron Workers union use some of their pension money to finance below-market, no-points home mortgages for their members. The bank is considering expanding the service to other unions, many of which have retirement trust funds under Amalgamated's care.

The recent mini-resurgence of labor banking is led by unions in the construction trades. Massachusetts members of the carpenters' union opened a Boston bank in September, and California carpenters plan to open a separate institution next year. Two-year-old Union Savings Bank in Albuquerque, N.M., another construction-trades bank, uses its $10 million in assets for loans to small businesses and other customers.

"I think there's been a realization that we should be generating jobs with our own money wherever possible," says Anthony Ramos, the retired former leader of the California State Council of Carpenters.

Amalgamated's loud voice on consumer issues is partly a marketing ploy to set itself apart from the pack. As other banks cater to big depositors and raise fees for small accounts, Amalgamated promotes treats for the little guy, such as its free checking and low-interest personal loans.

Highly conscious of its labor roots, Amalgamated also likes to take shots at the establishment banks. In one of its radio commercials, a stuffy banker tells a customer he needs a password to sit down, "The name of any Ivy League school will do," says the banker. "P.S. 188?" asks the customer, naming the public school he attended. In other ads, comedians Jerry Stiller and Anne Meara imitate rank-and-filers with names like Rocco and Blanche, and pitch "America's Labor Bank."

"If we give [the industry] an uncomfortable feeling for a couple of hours, it will be worth it," concludes Edward M. Katz, Amalgamated's president and chief executive.

The bank's five-story brick headquarters, which it shares with its union owner, overlooks New York's Union Square, the site of labor and political rallies earlier in the century. Back in the old days, Amalgamated's services even included a travel agency and foreign-exchange desk for the immigrant population that dominated the clothing workers' union. Today, customers in open shirts and work boots outnumber those in business suits. Proclaims a plaque on the lobby wall: "New York's First Labor Bank, dedicated to the service and advancement of the labor movement."

Mr. Katz, too, is quick to prove his allegiance. After ushering a visitor into his office, he flips open his suit jacket and proudly shows the union label. A soft-spoken man of 66 who started as a part-timer at the bank in 1946, Mr. Katz raises his voice when he talks about how small depositors have fared under banking deregulation. Not too well, he believes. "When you have a special industry using Uncle Sam as an umbrella in times of difficulty, don't you owe something to the public?" he asks. "What would be so wrong with having an account on which you don't make money?"

Amalgamated, though, is bucking a strong trend. A national survey conducted by the Consumer Federation of America and others found that fees for routine banking services are rising sharply for most depositors.

In some ways, Amalgamated has a lot less to offer those customers than its competitors. Small by big-bank standards, it doesn't generally offer credit cards or home mortgages. With only three branches and two newly opened automated teller machines, it lacks what many consumers want most: convenience. And in the ranks of big-league banks, Amalgamated is an also-ran, shunning such trends as interstate expansion and the hot competition for corporate loans.

"I'm not conscious of their presence" as a competitor, says Richard Ravitch, the chairman and chief executive of Bowery Savings Bank, which has about four times the assets and eight times the branches of Amalgamated. Contends another New York banking official: "If they were the best, they'd be bigger."

But what Amalgamated does have, it pushes hard, especially its reputation as a low-cost consumer bank. Last year, when an annual survey by New York State Sen. Franz S. Leichter dropped Amalgamated to No. 11 from No. 1 as the least expensive bank for New York City consumers, Amalgamated officials phoned the legislator and angrily complained. (The bank is back up to No. 2 this year.) In 1985, the Better Business Bureau of Metropolitan New York challenged Amalgamated's boast of having the lowest auto-loan rates of any bank in the city. But the bank quickly backed up the claim, the bureau says.

Amalgamated says its current 9.2% interest rate on new auto loans is still the best in the city. According to the Bank Rate Monitor, seven of the largest bank and thrift institutions in the New York City area charge an average of nearly 12.5%. On the deposit side, the bank's 6.25% annual yield on money-market accounts is a third of a point higher than the average paid by 10 big institutions tracked by the monitor.

Amalgamated also pays interest and charges no fees on savings accounts with a $5 minimum. And it is not unusual for the bank to get thank-you notes from longtime customers surprised to find the bank honored their checks—and charged no penalty—on their overdrawn accounts.

Customers' main complaint centers on what bank employees call "the conga line" that often slowly snakes its way to 23 tellers in the lobby of the main office. Still, other factors outweigh the long waits, depositors say. Edward Soorko, for example, says he moved his account to Amalgamated after Citibank bounced a check for his son's tuition—even though he covered the check with a deposit the same day.

Charles Nabelle, a dapper 82-year-old customer in a white hat and sports coat, walks 13 blocks to get to Amalgamated's Union Square office. There are plenty of closer banks, but he says he chose Amalgamated because he likes the personal attention he gets there. After cashing a $40 check, Mr. Nabelle offers a short lecture on the importance of shopping for bank services. "A poor sucker will go for Chase Manhattan as opposed to Amalgamated because Chase or Citibank is an *important* bank," he says. "That is unfortunate."

And perhaps costly. Sen. Leichter's latest survey found that a typical bank customer with $600 in checking and $1,000 in savings would earn $105 in a year at Amalgamated and lose $100 at Manufacturers Hanover Trust Co. Amalgamated, says Glenn von Nostitz, the legislative aide who oversees the survey, shows "you can give people a break and still make money."

Not surprisingly, Amalgamated has kept a close relationship with organized labor. Unions account for up to two-thirds of its $1.1 billion in deposits, and its trust department holds an additional $3.2 billion in pension and health-and-welfare funds. Amalgamated manages $1.6 billion of the trust funds, shunning stocks and corporate bonds in favor of safer government securities.

In 1973, Amalgamated officials worked over a weekend to fill out hundreds of bail checks to keep striking Philadelphia teachers out of jail. Nine years later, when the National Football League Players Association ran out of money during its strike, it turned to Amalgamated for a $200,000 loan. The player's union didn't have an account with the bank at the time, but "we did after that," says Ed Garvey, then the Union's executive director.

Although neither the Amalgamated Clothing and Textile Workers union or the bank likes to admit it, the goal of giving consumers and unions a break often conflicts with the goal of making money. But Mr. Katz has the luxury of working for owners who aren't constantly pressing for higher profits. "You make a little less," concedes Jack Sheinkman, the president of the union and chairman of the bank. "Despite that, we've done very well in terms of our return on equity and on capital," which exceed the average for banks Amalgamated's size.

That attitude makes it easier for the bankers to concentrate on another priority of the union—financial safety. The bank has few corporate customers and, as a matter of policy, turns down offers to participate with other banks in corporate lending. "I don't want to rely on my big brothers" to determine if a loan is safe, says Mr. Katz. Nor does he like to gamble on investments. Mr. Katz prefers buying U.S. government securities, and the shorter the maturity the better. "All the money's tied up in cash," jokes Howard Lee, the executive vice president and cashier.

The result is steady, if not spectacular, profits. Last year, Amalgamated earned $12.2 million, sending $7 million of that in dividends to its union owners. Government bank examiners often do double takes when they pore over Amalgamated's books. Bad loans charged off in 1986: $195,000 out of $313.5 million, far below the average for banks its size. Auto loans delinquent 30 days or more at the end of November: 11 out of 13,044.

Says William A. Goldberg, who runs the bank's personal-loan department: "We're here for the average guy—so long as we are reasonably assured he'll pay us back."

SUPERCONDUCTING SUPER COLLIDER: CALIFORNIA'S EFFORT UNITED FOR SUCCESS

HON. ERNEST L. KONNYU

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. KONNYU. Mr. Speaker, as the old expression goes, good news travels fast but bad news travels even faster and lingers much longer. I am taking this opportunity to correct some of the bad news and incorrect information surrounding the siting of superconducting super collider [SSC] in the Golden State of California.

In spite of some statements to the contrary, locating the SSC in California is strongly supported by the vast majority of Californians. A recent independent survey indicated that over 68 percent of the respondents to the poll of northern Californians supported locating the facility in California. Also, the entire congressional delegation as well as the State legislature and the Governor of California are united in their efforts to do all they can to ensure California is the site for the SSC.

Both sites in the State of California, the one in Yolo and Solano Counties, northwest of Sacramento, or the other which is in the Central Valley south of Sacramento in San Joaquin and Stanislaus Counties, exceed the technical requirements for the site location of the SSC. There is more than sufficient water and energy for the project at these locations. Our greatest asset in my opinion, is the intellectual capabilities of the scientists, technicians, and academicians who are presently working at the University of California at Berkeley, Stanford University, the University of California at Davis, and the University of the Pacific. These individuals are among the best in the world and their presence close to the SSC is an invaluable plus for locating the SSC in California.

Furthermore, our State is willing to make a substantial contribution to help defray the overall costs of the superconducting super collider.

Mr. Speaker, all factors considered, the State of California will be the best location for the SSC because it fulfills all the technical requirements, but more importantly, it has unsurpassed human resources to really make this project work for our Nation.

EDITOR'S 2¢ WORTH

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. JONES of Tennessee. Mr. Speaker, the end of any year generally brings with it a series of stories and commentaries in the media that evaluate the things that have gone on throughout the preceding 12 months. True to form, such stories and pictorial revisiting of the events of 1987 have already begun emerging in the media.

I would like to take this opportunity to share with my colleagues a similar musing put together by my friend Mr. Bob Parkins, the editor of the Milan Mirror-Exchange of Milan, TN. In providing editorial comments about the recent riots of Cuban inmates at United States prisons, Mr. Parkins made what I think is a key point: that no where else in the world do we see people risking their lives to prevent being sent back to a nation ruled by a Communist regime.

In making that point, Mr. Parkins vividly provides all Americans another reason to be thankful for the great freedom we enjoy both collectively and individually. I hope that my colleagues will take time to read this editorial which I am requesting be printed in the RECORD.

The article follows:

EDITOR'S 2¢ WORTH

(By Bob Parkins)

Where else but America?

That phrase often pops up, and it is usually appropriate verbage.

Milanite Jim Cutlip brought out an interesting point on the subject last week, while we were discussing the Cuban rioting in U.S. prisons.

Where else in the world would inmates risk their lives to prevent being sent back to a Communist stronghold?", he asked.

That is an interesting comment and a significant truth.

Most folks risk their lives to get out of a country . . . instead of remaining there. Ever heard of prisoners in Russia, protesting to stay in the Soviet Union? Or Jews in Lenin-Land demonstrating to stay there . . . Or East Germans revolting to stay behind the Communist Berlin Wall?

Never!

With all of the world spotlight on the Reagan-Gorbachev summit talks, President Reagan would do well to remember the human rights issue.

Keeping citizens imprisoned behind brick walls and barbed wire without permission to leave, says a lot about a nation's freedom policy. While visiting the Soviet Union many years ago, we Americans found it a lot more difficult to get out of Russia than enter it. We'll never forget the anxiety of going through 'Checkpoint Charlie' at the 'Wall' from east to west Berlin. Armed guards, stone-faced, studied the photos on our passports at length—glancing up and down from the photos to our faces—before finally waving us on. It was a relief to cross over from bondage to freedom.

Conversely, in America, there are no "Walls," to keep people from going wherever they please. Americans are allowed to protest at will on any issue—from gay rights to nuclear bans—without retribution.

Had the Cuban riots happened in Russia, (which happened in America) the riots wouldn't have lasted a day. Protestors not shot would have been beaten to death.

Only in America could such freedom prevail.

But too often, freedoms are abused rather than being counted as a blessing.

INDICATIONS OF STRONG SUPPORT FOR THE SSC IN CALIFORNIA

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. LEWIS of California. Mr. Speaker, recently, I was visited by members of a delegation of interested Californians who came to Washington to express their support for the superconducting super collider. This delegation, which numbered over 60, was made of people from all walks of life. They live in the two areas of California—near Stockton and the Yolo and Solano Counties—where the SSC would be sited. None of the delegation would receive a direct benefit if the SSC was built in California. In fact, several of the farmers would lose part of their land if the collider was built. But these people believe in the SSC and they traveled to Washington on their own to convey their views.

Their message was simple: The people of California overwhelmingly support the superconducting super collider and want to see it built in their State. While there has been some opposition expressed to the SSC in California, a far greater number of people stronger favor the collider. More importantly, the supporters are deeply committed as demonstrated by their efforts.

Mr. Speaker, the SSC is the next stage of development of high energy physics. It is impossible to anticipate all the benefits we will derive from the knowledge we will obtain through its operation. Unquestionably, the SSC will require some sacrifices. It is expensive, at a time of limited budgets. There are uncertainties involved. However, the greatest burden will be borne by those who will live in the immediate vicinity of the actual site. Those people will lose some of their land and their rural lifestyle. But the great majority of the people from Yolo, Solano, and Stockton are willing to bear that burden. For this reason, among others, I believe the State of California should be the home for the SSC.

A TRIBUTE TO MERRILL JACK EDWARDS

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. JONTZ. Mr. Speaker, Merrill Jack Edwards of Marion, IN, should serve as an inspiration to all of us in public life.

He is an uncommon man.

Jack has been readily recognized for years as he sports his bow-ties and big, white Stetson hat. He still drives a heavily armored Studebaker that he once used to chase John Dillenger across the Indiana countryside. Jack Edwards turned 86 this year, but he remains a colorful, active resident of our community.

To the regret of many, 1987 will also mark the end of the public service career of Jack Edwards—a career which spanned 65 years. From 1922 to 1987, Jack served Marion, IN, in every office of city government. During the depths of the Depression, Jack was both mayor and city judge. Many still remember his unique method of collecting fines in city court by requesting food as payment for wrongdoing, then redistributing it to those who were in need.

Jack did not even consider slowing down as he grew older. When many of his peers were retiring, Jack Edwards was organizing. In 1971, he funded the National Senior Citizens Christian Alliance. I first met him when I was a State legislator, and he was an articulate advocate for the cause of senior citizens in the Indiana General Assembly.

If these responsiblities weren't enough, Jack became a candidate for public office once again, and was elected to the Marion City Council in 1983. Now in these final days of 1987, he will be retiring from his seat on the city council, and many Marion residents will again thank him for a job well done.

Whether as mayor, city clerk, councilman, or city judge, Jack Edwards was distinguished by his flamboyant style and compassionate leadership. Even though he is retiring from elected office this month, I know he will continue his keen interest in politics and public affairs. Office holders, aspirants, and common citizens will continue to seek his counsel and support.

City government in Marion, IN, will soon lose the services of Jack Edwards, but our community will never lose the legacy of his leadership.

I am proud to call Jack Edwards my friend.

RATIONAL AIDS EDUCATION

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. STUDDS. Mr. Speaker, I would like to share with my colleagues the following editorial from the November 20, 1987, issue of the Cape Cod Times. In so doing, I commend both the Times and Scholastic, Inc. for treating the public—both young and old—with the respect they deserve.

The editorial follows:

[From the Cape Code Times, Nov. 20, 1987]

AIDS CURRICULUM

By now, just about everyone understands at least one thing about AIDS: We have an enormous amount to learn about controlling this deadly disease.

Certainly, the federal government has done little to educate the public (with the exception of Surgeon General C. Everett Koop's informative, concise and readable booklet on the subject). Nor have state health organizations done as much as they might.

Unfortunately, AIDS information is too easy a prey to politics and secular moralizing.

Fortunately, the communications media are beginning to take seriously their role in the dissemination of information.

One excellent example:

Scholastic Inc., this country's largest classroom magazine publishing company, has launched a nationwide campaign to reach as many as 23 million middle school and high school students.

Teachers in at least two schools on the Cape—Dennis-Harmouth Regional High School and Cape Cod Tech in Harwich—are using the 38-page October issue of the publication Scholastic Update as a classroom teaching aid. The publisher sent copies of Update to more than 350,000 educators across the country, and the company's AIDS education program will be continued through nine of the school-age magazines the firm publishes.

The October Update contains 14 articles on AIDS, ranging from the issue of whether students with the disease should be allowed in classrooms, to interviews with AIDS victims and high school students who have volunteered to staff AIDS hot line phone centers. The stories are not alarmist. They treat their school-age readership as rational people. They get their message across.

Scholastic Inc. is to be praised for this calm, sensible, and immensely informative campaign of AIDS education. We hope their mailings include key players in state and federal government, because if ever there was a model for educating young America about AIDS, this is it.

NUCLEAR WASTE PROVISIONS OF BUDGET BILL

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. RAHALL. Mr. Speaker, I would like to comment on those provisions of the Omnibus Budget Reconciliation Act for fisal year 1988 which would amend the Nuclear Waste Policy Act of 1982 as they relate to the monitored retrievable storage [MRS] facility.

As we are all aware, the Nuclear Waste Policy Act of 1982 established a program for the permanent disposal of radioactive waste, especially spent nuclear fuel rods from the Nation's nuclear reactors used to generate electricity. The law directed the Department of Energy to submit to the Congress a proposal for constructing an MRS facility that would allow for continuous monitoring and easy access of nuclear waste until such time as it could be permanently stored in an underground repository. However, the MRS is now also being viewed as a permanent facility which would be used for waste preparation and packaging prior to sending it to the permanent repository.

Unfortunately, the program envisioned by the 1982 law has been plagued by mismanagement and controversy. The Energy Department has failed to meet all of the statutory deadline, especially as they relate to the selection of the permanent nuclear waste repository. The agency did, however, officially transmit to Congress earlier this year a recommendation to construct the MRS facility at Oak Ridge, TN.

The controversy surrounding this program led the Senate to adopt legislation which would authorize the MRS facility and, in effect, cause the permanent respository to be located in Nevada. The House Committee on Interior and Insular Affairs, however, reported legislation which would have imposed an 18-month moratorium on nuclear waste activities pending the completion of a study by a spe-

cial review commission. The Interior Committee bill would also have created a nuclear waste negotiator charged with finding volunteer host States for the MRS and permanent repository.

These matters were the subject of a House-Senate conference committee meeting on this legislation as part of the budget bill. As a member of the conference, I strongly supported the House position of opposing the Senate MRS provisions, although I have supported the prospect of feasibility studies being conducted for the MRS if requested by State Governors.

The legislation finally adopted by the conference committee before us today would authorize an MRS facility only under certain conditions and extremely protracted circumstances. This is no blank check to build a MRS just anywhere.

Under the legislation, a dual system would be established which could lead to the selection of a site for the MRS: First, a nuclear waste negotiator authorized by the bill would attempt to find a volunteer site. If the negotiator is successful in reaching an agreement with a State, Congress must enact legislation to implement the deal. Second, the Energy Department would restart the process of finding a site which led to its earlier decision to locate the MRS at Oak Ridge, TN—a decision which the legislation nullifies. Under this procedure, the MRS authorization would be conditioned upon the Nuclear Regulatory Commission issuing a construction license for a permanent nuclear waste repository which the legislation would place in Nevada.

Also established by the legislation would be a three-member MRS Review Commission appointed by the Speaker of the House and the President pro tempore of the Senate. The Commission would evaluate the need for a MRS as part of the Nation's nuclear waste program and make recommendations to the Congress by June 1, 1989.

The legislation would also provide $5 million per year to any State after signing for the MRS and $10 million per year after the first nuclear waste is accepted at the facility. It should be noted that this assistance would be subjected to the annual appropriations process.

More specifically, under the volunteer site method the nuclear waste negotiator, appointed by the President, would attempt to find a State or Indian tribe willing to host the MRS. The negotiator would negotiate with the Governor of any State unless State law authorizes another person other than the Governor to negotiate a proposed agreement.

If the negotiator reaches an agreement with a State, the Energy Department would prepare an environmental assessment during which time public hearings would be held in the vicinity of the proposed site. The proposal would then be submitted to Congress. If Congress authorizes the agreement, the Nuclear Regulatory Commission [NRC] would have 3 years to either approve or disapprove the construction authorization application.

The Energy Department selection method would explicitly link the construction of an MRS to the NRC issuing a license to construct the permanent nuclear waste repository in Nevada. The Energy Department would undertake a survey of potentially suitable sites for an MRS facility and could conduct site-specific activities to gather the information needed to support a license application to the NRC. However, this survey could not begin until after the MRS Commisison submits its report on June 1, 1989. Once the survey is completed, the Energy Department would select one site, conduct public hearings in the vicinity of the proposed site, and complete an environmental assessment. Construction of the MRS facility would be subject to licensing by the NRC.

When the Energy Department selects a site, the host State may disapprove the selection. However, the State's disapproval may be overriden by the Congress. It should be noted that since site characterization activities for the permanent repository site in Nevada would not be completed until 1995, no MRS could be authorized until after that time.

Mr. Speaker, I refused to sign the agreement on the nuclear waste bill worked out by the conference committee because of the confusing and convoluted system the bill envisions for finding a site for the MRS facility.

The legislation first says, yes; we may want an MRS if a State volunteers for it and Congress then authorizes the agreement. At the same time, it says even if a volunteer site cannot be found the Energy Department will go out and find a site as long as the permanent waste repository in Nevada is licensed for construction. But then the legislation second-guesses all of this by telling the Energy Department not to begin surveying sites until a special commission tells us if we should even have an MRS in the first place.

My position has been that we should have the facts first, and conduct the studies, before even considering moving forward with legislation which may lead to the construction of a MRS facility.

I think that it is especially important to note that nothing in this legislation can be construed as meaning that West Virginia is the prime candidate for the MRS. Our State was originally passed over by the Energy Department when it arrived at its recommendation to site the MRS in Tennessee and there are many other areas which have already been studied or which are contenders for this facility. In effect, on the question of where the MRS may, if all conditions are met, eventually be sited the bill is silent.

LEO J. TROMBATORE: AN OUTSTANDING PUBLIC SERVANT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. ANDERSON. Mr. Speaker, one of the most enjoyable and rewarding aspects of public service is the opportunity to meet and work with so many individuals who devote their careers to the betterment of society. One of the most outstanding people that it has been my privilege to know is Leo J. Trombatore. Leo, at the end of the year, is retiring from the California Department of Transportation, Caltrans, after a 40-year career during which he advanced from a young engineer to director, serving in positions throughout the State.

Before Leo ever went to work for Caltrans, when he was still a young engineering student at UCLA, his first highway job was with the city of Hawthorne. I was the mayor of Hawthorne at that time, and so the first paycheck he ever received for transportation work was signed by me. Of course, I didn't know Leo then, but that doesn't stop me for trying to take some credit for his brilliant career.

Leo's tenure with Caltrans began in 1947. When one pauses to consider all the monumental projects that have moved from the planner's table through construction to completion in the intervening, halcyon years, it is not difficult to imagine how exciting Leo's career has been. And given his various posts around the State, it is clear that many of these projects bear Leo's imprimatur.

Most recently, Leo has spent nearly 5 years as Caltrans director. It is in this capacity, the position of highest responsibility within the State department of transportation, that Leo has left what is perhaps his most important mark. When he took over Caltrans, which for many years had been at the cutting edge of all that was new and innovative in highway design and construction technologies, he found a moribund agency. For various reasons, morale had ebbed, needed work was not being delivered, and popular support for transportation was low.

That situation has now been reversed. There is a renewed interest in transportation in California. Work is being demanded and delivered. And Caltrans is once again a department where bright young engineers are proud to say they work. In large measure, Leo is responsible for this revival.

And his outstanding efforts have been appreciated not just by the people of California, but by his peers from around the country as well. In 1983 Leo received the Government Professional Award from the National Society of Professional Engineers. The American Public Works Association recognized him in 1984 as one of the country's top 10 public works officials. At various times he has served as president of the Western Association of State Highway and Transportation Officials, and has been on the Executive Committee of the Transportation Research Board and the Executive and Policy Committees of the American Association of State Highway and Transportation Officials, [AASHTO]. And, most recently, AASHTO bestowed upon Leo its prestigious "Thomas H. MacDonald Award." The list of awards and posts he has earned and in which he has served is seemingly endless.

I am proud of the work that Leo has done for California and of the favorable attention that he has brought to the State through the sheer force of his exemplary efforts. But even were it not for that work, his personal characteristics, his honesty and integrity, his perseverance and interest in doing a job and seeing it through, and his steady, solid approach to work and to life; these facets alone would make me proud to have Leo as a friend.

Mr. Speaker, after 40 years, Leo is leaving Caltrans. That very significant chapter of his life will be behind him. Ahead of him lies a

new chapter, and Lee and I hope that for Leo, his wife Shirley and their children, it is one filled with all the joy and happiness they have earned and deserve. During this transition that Leo is about to experience, there is at least one thing upon which I hope he knows he can count. To me, Leo will continue to be a great and good friend.

And Leo, if you have the time, I think there is still an interchange in Hawthorne that could use some work.

FAREWELL TO DAVE BOCKORNY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. MICHEL. Mr. Speaker, today marks the last day David Bockorny will serve as Special Assistant to the President for Legislative Affairs.

Dave has been of great service to Members of the House and of great credit to the President during the past 2 years.

We will miss him around here and we wish him well in his new and promising career in the private sector.

INTRODUCTION OF LEGISLATION COMMEMORATING THE 100TH ANNIVERSARY OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. DAVIS of Michigan. Mr. Speaker, I am very pleased to join the chairman in introducing today a joint resolution commemorating the Merchant Marine and Fisheries Committee's 100th year. I am convinced that the accomplishments of this committee over the past century are deserving of commendation and recognition.

As the resolution states, the Committee on Merchant Marine and Fisheries was created on December 21, 1887—100 years ago today—to supersede the Select Committee on American Shipbuilding and Shipowning Interests.

Since the name of the committee does not begin to accurately describe the broad jurisdiction of the committee, I would like to very briefly acknowledge our subcommittees and their areas of responsibility:

Obviously Merchant Marine Subcommittee is responsible for all maritime matters and related marine transportation issues, domestic and international. I think it is important to note that recent events in the Middle East have brought to the forefront the need for freedom of the seas and the role of the merchant marine in our national security.

The Coast Guard and Navigation Subcommittee oversees all the activities of the U.S. Coast Guard—protection of our shores, inspection and documentation of ships and large boats, vessel safety, traffic control, execution of search-and-rescue missions, enforcement of fishery conservation and economic zones, oil spill containment and cleanup, and enforcement of drug smuggling laws, to name just a few.

The Fisheries and Wildlife Conservation and the Environment Subcommittee is charged with an equally large area of jurisdiction—promotion of our fisheries as well as fishery conservation, creation of the 200-mile limit, protection of wildlife, habitat and environment, creation of national wildlife refuges, and protection of marine mammals and endangered species.

The Oceanography Subcommittee's jurisdiction is also of great importance in that it continues to develop and broaden legislation dealing with increasing ocean dumping problems, coastal zone management, deep seabed mining, law of the sea issues, and various specific programs such as Sea Grant.

The Panama Canal/Outer Continental Shelf Subcommittee—this subcommittee has exercised jurisdiction over the operation of the Panama Canal since it was built and played a primary role in developing the implementing legislation for the controversial Panama Canal Treaty. I understand the newer Outer Continental Shelf jurisdiction was developed and broadened during the 1970's primarily as a result of this committee's Coastal Zone Management Act legislation, and the committee's jurisdiction over safety of floating platforms.

Last but not least, under your leadership, Mr. Chairman, we now have our Oversight and Investigations Subcommittee which maintains a watchful eye over all major issues under our jurisdiction.

I hope I have not omitted any significant committee issues in this brief outline. Even if I have, I think you will agree that the list demonstrates just how diverse our jurisdiction is. I personally have always felt that it is this diversity that makes this committee more interesting than most.

As do all coastal areas, the Great Lakes reflect the same diverse interests of the committee. Shipping is a legendary tradition as are our lighthouses and Coast Guard rescue stations. And as the largest fresh water body in the world, the lakes are still a fragile marine environment rich in natural resources that are in need of protection. Also, while the Great Lakes do not have a Panama Canal, they do have the St. Lawrence Seaway Development Corp.

Mr. Speaker, I also want to add that I am proud of the fact that the Honorable WALTER B. JONES is our chairman as we celebrate this 100th anniversary. He has led this committee with integrity and fairness for the past 7 years, and has done much to enhance our committee's esteem. Additionally, his leadership in handling problem areas and bringing about reasonable compromise has been outstanding * * * the hallmark of the way in which we do business here.

To conclude, I am proud to serve as the ranking minority member of the Merchant Marine and Fisheries Committee, and am glad that we are publicly and formally acknowledging our 100th anniversary by introducing this resolution today.

ON THE FAMILY WELFARE REFORM ACT OF 1987

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. LIGHTFOOT. Mr. Speaker, earlier this year there was a great deal of hope that the Congress would be able to develop a plan to overhaul our Nation's welfare system. There appeared to be mutual agreement that our welfare programs needed to be revised to encourage people to move off of Federal assistance and into productive employment through education, training, and work activities. Unfortunately, the House was unable to translate this goal into a plan which I could support.

The welfare reform proposal approved by the House last week, H.R. 1720, seeks to accomplish this task, but I feel that it has fallen far short of this goal. For example, the bill approved by the House creates new barriers to work, mandates more Federal regulation and control, provides for little State flexibility in designing innovative welfare reform programs; and costs the taxpayers a great deal of money.

Instead, I believe the substitute bill offered by my distinguished colleagues, House minority leader BOB MICHEL and Congressman HANK BROWN, moves us in the direction of true welfare reform. For example, this bill called for stronger work requirements and greater State flexibility. According to the Congressional Budget Office, the Michel-Brown substitute bill would have resulted in 935,000 welfare parents participating in work programs versus only 210,000 families participating in work programs under the House-passed welfare bill. The substitute bill would also have resulted in 50,000 families leaving welfare for work, whereas it is estimated that under H.R. 1720 only 15,000 families would leave welfare.

In addition, the Michel-Brown substitute provides the States with greater flexibility to design their own welfare programs. It has been argued that innovative, community-based welfare programs need to be developed in order to reduce welfare dependency. Under the substitute bill, States would have been allowed to develop demonstration projects aimed at providing incentives for people to become independent of welfare. The House-passed welfare reform bill fails to acknowledge States' roles in designing welfare assistance and training programs.

Furthermore, H.R. 1720 increases costs to States by requiring them to finance benefit expansions. Rather than allowing States the option to increase or expand benefits as under current law, the House-approved bill requires States to increase benefits, such as those for two-parent families. For example, it is estimated that H.R. 1720 would impose over $900 million of costs on the States, while the Michel/Brown substitute would have saved the States $479 million over 5 years.

Finally, H.R. 1720 carries a price tag of $5.7 billion over 5 years, compared to a $1.1 billion price tag for the substitute bill. It is hard to imagine that the House of Representatives

would approve such a costly bill during this time of fiscal austerity. It is ironic that while we are trying to achieve savings in Federal programs, the House is approving legislation costing the taxpayers billions of dollars without demonstrating that the money will be well spent or will actually accomplish the goal of reducing welfare dependency.

Mr. Speaker, it is not too late to achieve a thorough overhaul of our welfare system. The Senate must now act on welfare reform legislation, and I encourage that body of Congress to take a close look at this issue and to develop a proposal that is more in keeping with the Michel/Brown substitute.

THE RAINBOW WAHINES

HON. PATRICIA F. SAIKI

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mrs. SAIKI. Mr. Speaker, Hawaii athletes this past weekend once again brought honor, distinction, and a national title to the Aloha State.

The University of Hawaii Rainbow Wahine Volleyball Team won the NCAA championships by beating Stanford University 15–10, 15–10, 9–15, and 15–1. The Rainbow Wahines, our women's team, is the first school to win three NCAA women's volleyball championships.

The driving force behind this unsurpassed record is Coach David Shoji. His experience and ability to inspire the best in his players resulted in a 37 to 2 season this year.

This championship is especially sweet for the Wahine's three seniors. Team captain Tita Ahuna, Mahina Eleneki, Suzanne Eagye, and Diana Jessie worked hard to get the Wahine's to Indianapolis, where the NCAA final four championships were held.

All of Hawaii is proud of the University of Hawaii Wahines. They are "no ka oi." In Hawaii, that is our way of saying, there are none better.

THE MYTH OF PAKISTAN AS A HEROIC U.S. ALLY

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. DYMALLY. Mr. Speaker, I bring to your attention a recent article in the New York Times regarding "The Myth of Pakistan as a Heroic U.S. Ally."

THE MYTH OF PAKISTAN AS A HEROIC U.S. ALLY

To THE EDITOR: Representative Bill McCollum's views of India and Pakistan (Op-Ed, Dec. 5) are distortions that fail to understand the relationship between the two countries and will only worsen Indian-American relations. Pakistan is not America's ally against Communism as Mr. McCollun claims; it never was. Nor is India an "almost Soviet surrogate"; it never was.

Pakistan joined the Southeast Asia Treaty Organization and Central Treaty Organization alliance in the 1950's, not to advance American strategic objectives against what was seen as a monolithic Chinese-Soviet Communist threat, but to deal with India. After the 1962 Chinese-Indian war, when the Kennedy Administration sought to provide India with arms, Pakistan not only thwarted these efforts but also joined China in a military alliance against India. American arms to Pakistan were used against India in the wars of 1965 and 1971. Not a single Pakistani shot was fired at a Communist country.

United States arming of Pakistan in the late 50's forced India to purchase at considerable cost arms from Britain and France. Only after American denial of arms to India in 1963 did India begin greater military cooperation with the Soviet Union. Even here, India has sought to balance military dependence on the Soviet Union with expensive military purchases from Western Europe.

India's nuclear dilemma began when China conducted an atomic test in 1964—two years after China's war with India and the forging of the unholy Chinese-Pakistani military alliance. While China, then as now, continued to build its nuclear capability, India refrained from pursuing nuclear weapons until 1972. However, the Indian nuclear dilemma became more acute after the Nixon-Kissinger tilt toward Pakistan during the critical Bangladesh crisis of 1971. This was also a time when the United States was pursuing rapprochement with Communist China, the other archenemy of India and ally of Pakistan. Under these circumstances, nuclear guarantees on behalf of India against China became dubious, and the nuclear question was reopened.

After India's 1974 atomic test, the Indian objective of becoming a nuclear power ceased until Pakistan began doggedly to pursue a nuclear weapons program under cover of false assurances to the United States.

The image of Pakistan as the heroic ally of the United States is a fantasy, which right-wing Communist-baiting and India-hating Americans continue to believe steadfastly. The Soviet invasion of Afghanistan has enabled Pakistan to acquire sophisticated American arms intended mainly for use agaisnt India and to scoff at the Symington Amendment with impunity. Likewise, it is important for the American right to distort the Indian-Soviet military relationship to justify a new round of United States arms to Pakistan, forgetting that Indian military dependence on the Soviet Union was created by American arms to Pakistan. Meanwhile, massive economic aid for Pakistan—the third largest per capita foreign aid the United States gives to any country after Israel and Egypt—has enabled it to enjoy the highest economic growth rate in South Asia. It is no wonder Pakistan is not serious about resolving the Soviet occupation of Afghanistan.

Whatever weaknesses Americans perceive in the Indian political and economic system, it is India that has thwarted the advance of Communism in Asia for more than four decades by practicing democracy under the most difficult conditions; and by pursuing a realistic policy of coexistence with the Communist world.

India has no objections to good relations between the United States and Pakistan. But it cannot accept American efforts to counterbalance India by beefing up Pakistani military capabilities under the policy of containing Communism. This warped American vision of South Asia seen through East-West conflict lenses has existed long enough. India and Pakistan are principally concerned with their regional differences. Indeed, if the United States wishes to test this theory, it need only arm India. In no time will Pakistan be seeking military ties with the Soviet Union—as it did with Communist China in the 1960's.

RAJU G.C. THOMAS,
Professor of Political Science,
Marquette University.

BOB BERRY RETIREMENT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. GILMAN. Mr. Speaker, when the 2d session of the 100th Congress convenes in January 1988, this Chamber will not seem like the same place. For the first time in 17 years we will not have the advantage of the fine service Bob Berry has performed as our reading clerk.

Bob has performed his job with such excellence, such skill, and such grace that it is easy for us to forget just how complex and arduous is the position of chief reading clerk for the House. Since 1970, Bob Berry has performed so admirably—with skill, fairness, and expertise—that his shoes will be extremely difficult to fill.

Bob came to us as a native of the great State of South Dakota. Being born and raised in that State, Bob brought to Capitol Hill the pioneering spirit of individual initiative and American know-how which have served us so well for as long as he held this position.

Bob Berry brought with him also a family history of public service. As the son of one of our most distinguished colleagues, the Hon. E.Y. Berry, who served in the House with distinction from 1951 to 1971, Bob's imminent departure marks the conclusion of a 36-year tradition in this Chamber; a tradition of excellence in public service.

Bob is a veteran of our armed services. His 2-year stint on active duty in the Army took him to our Nation's Far East Command during the Korean conflict. In that position, Bob had the opportunity to observe and to participate in some of the major decisions of the day. Later, Bob served with the Combat Engineers 211th Batallion Headquarters of the South Dakota National Guard.

Bob Berry brought to his position a lifetime of experience, which he gained as a practicing attorney, as an assistant to the late Senator Karl Mundt, and as minority counsel of the Intergovernmental Relations Subcommittee in the Senate.

The tenure of Bob Berry as House reading clerk from 1970 to 1987 covers some of the most historic and emotion-packed Congresses in history. Bob Berry's performance as our reading clerk was a shining example to all of us.

To Bob and his family, we wish the best of luck as Bob leaves our hallowed halls for greener pastures.

Mr. Speaker, I invite all of our colleagues to join with us in bidding a fond farewell to this outstanding public servant, with the realization

that the gain of the American Gas Association is our loss.

AIDS EDUCATION

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. GREEN. Mr. Speaker, I am pleased to note that last week during the conference on the Labor-HHS-Education appropriations bill, conferees clarified the types of AIDS educational materials and programs that may be funded by the Federal Government. While the bill provides that Federal funds may not be used for materials and programs that directly promote or encourage homosexual activity, the conferees have made it clear that Congress does not intend to prohibit descriptions of methods to reduce the risk of HIV transmission.

On October 20, when the House approved a motion to instruct conferees to adopt language that would prohibit the Centers for Disease Control from giving funds to AIDS educational materials or activities that "promote or encourage, directly or indirectly, homosexual activities," I spoke on the floor against this amendment because it threatened the efforts of the Gay Men's Health Crisis and other groups which have provided targeted educational materials to fight the spread of AIDS. As I said that day on the floor and I believe it bears repeating, the Gay Men's Health Crisis, through its carefully targeted materials, has played a significant role in helping reduce the incidence of AIDS in the gay community in New York City. Their efforts should be commended and nurtured, not condemned or hindered.

It is my understanding that as the wording now stands, federally funded materials and programs that are geared for the gay community may describe the best methods of reducing the risk of HIV transmission in that community. Those materials and programs would not be viewed as directly promoting homosexual activity but rather would be viewed as acknowledging that homosexual activity exists, and providing the important preventative information necessary in light of such activity. I believe that this is a useful and important clarification made by the conferees and I applaud them for their efforts to make clear the intent of Congress with regard to this provision.

BUDGET RECONCILIATION LEGISLATION

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. LENT. Mr. Speaker, the budget reconciliation health subconferences have reached agreement on which provisions should be included in the legislation. The Medicaid subconference addressed three provisions and the conferees have agreed to include all three. Two of these provisions are very good and worth funding. They include a compromise version of nursing home reform, a significant reduction over past House spending levels for Medicaid, and an amendment to the disproportionate share provision that provides a waiver for the State of New York to continue its current State pooling arrangements.

The third provision, however, lacks merit as written and taxpayers should not be burdened with it. This dreadful provision is the funding mechanism and amendments to the National Childhood Vaccine Injury Act of 1986.

Unfortunately, this provision has been packaged in such a manner that I would be forced to agree to all three provisions although I support only two. I am not the only Member caught in this dilemma. Representatives DANNEMEYER, TAUKE, and WHITTAKER, the other House Republican conferees on this subconference, agree that this vaccine compensation provision represents poor judgment.

The vaccine compensation provisions exemplify the congressional conference process at its worst. The public can now see how this legislative body passes controversial and costly legislation by burying it in the middle of important legislation that many Members feel compelled to vote for.

Supporters of the vaccine provisions might recall that during the 99th Congress I supported the Vaccine Compensation Program passed by the Energy and Commerce Committee and ultimately signed into law. The Energy and Commerce Committee could not enact financing of this program because it required that a surcharge be levied on vaccine doses, for which jurisdiction rests with the Ways and Means Committee. Because no action was taken by the Finance Committees in the 99th Congress, the Vaccine Compensation Program has not taken effect. Although I want to see the 1986 Vaccine Injury Act funded, I cannot support the funding and the amendments that are contained in the subconference action.

When the Vaccine Injury Act was enacted, it was with the understanding that children injured before the passage of the act would be treated the same as children injured after the act. The conference report changes this. It was also understood that adequate funding would be developed to pay all claims without having to rely on the vagaries of the appropriations process. The conference action also changes this. I am convinced that the National Childhood Vaccine Injury Act of 1986, as funded and amended by H.R. 3545, will not work. I agree with those supporters of the 1986 act who have said that this legislation is "fiscally unsound, inequitable, and unworkable."

We do not serve the public interest when we legislate important and controversial programs out of the sight of the public, as we are about to do by considering the omnibus budget reconciliation bill. This process deprives the Members of the House the opportunity to debate the merits of individual programs. It is a disservice to the American public.

POPULATION ASSISTANCE POLICY

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. SMITH of New Jersey. Mr. Speaker, I would like the record to reflect two actions in the area of international family planning programs taken recently in the 1988 foreign assistance appropriations process.

On December 3, 1987, the Senate Appropriations Committee rejected an amendment to the 1988 Foreign Assistance and Related Appropriations Bill which would have withdrawn the President's statutory authority to declare ineligible for population assistance foreign nongovernmental organizations that perform or actively promote abortion as a method of family planning. The recorded vote was 14–11 against the amendment.

Earlier, on August 6, 1987, the House Appropriations Committee rejected a similar amendment by a recorded vote of 26–21, thus leaving intact the President's antiabortion eligibility policy.

These actions reflect the policy of the U.S. Government to provide strong support for voluntary population programs but firm opposition to abortion as a method of family planning.

That the President has the authority to promulgate the so-called Mexico City Policy is beyond dispute as any reading of the relevant statute and legislative history will reveal. For example, the Foreign Assistance Act of 1961 as amended states very clearly, ". . . the President is authorized to furnish assistance, on such terms and conditions as he may determine, for Voluntary Population Planning." (22 U.S.C. § 2151b(b))

I would also remind Members that 2 years ago the House went on record overwhelmingly in favor of an amendment I offered that expressly endorsed the President's Mexico City Policy. The vote was 234 to 189 (July 10, 1985).

THE GREAT CRANBERRY CRISIS

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. MOAKLEY. Mr. Speaker, in today's Wall Street Journal is an article written by Mr. Harold (Hal) Thorkilsen, the president of Ocean Spray Cranberries, Inc., which is located in the Ninth Congressional District of Massachusetts which I represent. I commend this article to members of our business community for its insight into the successful business strategies employed at Ocean Spray Cranberries, Inc.

My good friend, Hal, is stepping down as president of Ocean Spray Cranberries, Inc., at the end of this month but I think his accomplishments and his style of management can serve as a truly outstanding model for our Nation's corporate community for years to come.

I wish him the best in the future.

[From the Wall Street Journal, Dec. 21, 1987]

LESSONS OF THE GREAT CRANBERRY CRISIS

(By Harold Thorkilsen)

All too often, successful companies can fall victim to a byproduct of their own success: complacency.

It is when products are moving well, customers are happy and profits are high that complacency, like an undetected virus, can move in on a firm. The effects can sometimes be devastating, in terms of lost markets, plummeting sales, job layoffs, plant closings, and even takeovers or company closedowns.

A classic example is Detroit's experience in the 1950s and 1960s, when auto makers with full order books believed their hold on the U.S. market was secure forever. Not until the public began buying the new, high-quality imports did Detroit realize it might have been taking its customers for granted. It took years of attention to workmanship, quality standards and production costs before a significant turnaround began. Car makers, in their complacency, had failed to keep abreast of their clients' changing needs.

Similarly, companies with best-selling products that overlook subtle changes in consumer tastes are susceptible to the complacency bug. Back in the days of the so-called energy crisis, my organization started looking around for ways to package our products that would be more cost-efficient and less energy-dependent. Nowhere in the U.S. could we find anything suitable. But by looking abroad we discovered the new technology of aseptic "paper bottles," which we promptly introduced. American container makers, it seemed, had been perfectly happy with their existing product line. Their complacency lost them a lucrative new market.

Sometimes it can take a near catastrophe to reveal the extent of corporate complacency. At Ocean Spray, we learned the hard way after a crisis situation years ago that almost put our cranberry growers' cooperative out of business.

In those days, consumption of the fruit was almost entirely confined to the serving of cranberry sauce at Thanksgiving and Christmas dinners. We were quite content, at the time, with this single-purpose, single-season usage of our product. We were complacent.

Then disaster struck. Just before one Thanksgiving holiday, federal authorities reported that a pesticide used by some West Coast growers had caused cancer in laboratory rats. Although this widely publicized scare turned out later to be erroneous, pre-holiday TV coverage of "The Great Cranberry Crisis" cut sales drastically and came close to ruining our growers and their cooperative.

In the aftermath of this catastrophe, we were forced to re-think our entire marketing philosophy and management style. We acknowledged, first, that self-satisfaction, short-term thinking and ignorance of consumer needs were the reasons we had never developed a year-round product line. Then, after an extensive R&D effort, we embarked on a continuing program to diversify and create a year-round market by producing cranberry-based juice drinks and other products. By marketing our new beverages as "good for you"—just when consumers were starting to demand natural, healthier products—our organization was fortunate enough to save itself.

Our experience showed us several ways in which managers can spot early signs of "the complacency factor" and take corrective steps. One way is to institute a regular corporate review and self-examination process. This can work in any organization, but seems particularly apt for old, established companies, where the risks of status-quo thinking and entrenched working methods may be high.

At Ocean Spray (founded in 1930) a small management committee monitors every aspect of our operation on a biweekly basis. We examine and question, for instance, the breadth of our product line and consumer outlets, new products and packaging under development, our manufacturing and distribution methods, customer comments and complaints received, salesmen's reports, results of ongoing market research, our company policies and actions by competitors. In particular, we watch closely any product, packaging or working system that has remained unchanged for three years or longer. In some cases, we appoint a study group to examine a specific product whose performance might be improved.

As part of the corporate culture, we also let employees know that we encourage a spirit of innovation, entrepreneurism, risk-taking, questioning of orthodox methods and "thinking the unthinkable." Through such measures, and by staying vigilant, it is possible for a company to keep smugness and complacency at bay.

Other effective countercomplacency steps can include:

Staying in close touch with consumers, trade factors and suppliers to get an honest reading of how outsiders view the company's products and marketing methods. This process has helped us to quickly spot our occasional product failures, such as a cranberry-prune juice drink and a vegetable juice cocktail that consumers flatly rejected. It has shown us shortcomings in package sizing or design. It has also led us to capitalize on successful new ideas such as a tropical drink using Hawaiian guava fruit and the blending of a pink grapefruit-juice cocktail.

Encouraging the free exchange of ideas and suggestions, however farfetched, at every employee level. In our case, this "bottom-up" approach has been responsible for innovations such as the first ultraviolet cranberry sorter, better methods of crop harvesting, lighter shipping cartons, a cost-saving revision of our truck delivery system, more effective quality control with fewer inspectors, and an improved way of moving bottles down a line, suggested by a new employee.

Openness to new ideas, closeness to consumers and constant watchfulness are among the most potent weapons an organization can use to guard against the dangers of self-satisfaction and complacency.

YUGOSLAVIAN-MADE MINES MAY ENDANGER AMERICAN LIVES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. GILMAN. Mr. Speaker, I was dismayed to read that American ships in the Persian Gulf may be endangered by acoustic mines manufactured in Yugoslavia.

These mines were sold by Yugoslavia to Libya, which later traded them to Iran for poison gas, according to press reports.

I find it shocking that Yugoslavia, a nation with which we have relatively good relations, would be willing to sell high-tech weapons of war to the terrorist Qadhafi. Whatever assurances Qadhafi may have given about the "end use" of those mines—if indeed he gave any—could not be worth the paper they were written on.

I think that the Yugoslavian Government should realize that sales to outlaws such as Qadhafi can only lead to a sharp reassessment of American policy toward Yugoslavia, and the Yugoslavian Government should not be surprised that such a reassessment, based on this incident and other problems in that country, is now underway.

THE HAITIAN ELECTION DAY VIOLENCE

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. SCHEUER. Mr. Speaker, Haitian junta leader Gen. Henri Namphy was quoted last Tuesday in the French newspaper Liberation, as saying that the Army he heads had taken no part in the election day violence in Haiti on November 29. "The army," he said, "didn't even know who was shooting whom." However, foreign reporters in the provinces and in Port-au-Prince, Haiti's capital, witnessed Army participation in actions against voters and electoral officials. One American photographer stated that there were men in uniform among those who attacked voters at a Port-au-Prince polling place and killed 14 Haitians and a television cameraman from the Dominican Republic. When soldiers were not directly involved in the arson, the shootings and the knifings, they often stood passively by. At least five American reporters and photographers were attacked by a band of machete-wielding thugs, not more than 100 meters from the Army's highway checkpoint near the town of St. Marc. The ballots to be distributed throughout the northern city Gonaives were taken from the electoral office on election day morning at 7, and burned in the street just around the corner from the local Army headquarters. The night before, as in Port-au-Prince, gunfire raked the homes and offices of democratic leaders; at best, the Haitian Army did nothing to stop the violence.

The next day, after the junta announced that order was to be reinstated, the violence suddenly stopped. One must presume that those who could stop this violence the day after the elections could have stopped it the day before.

There is little question that Namphy's regime wanted the elections cancelled. Now the Namphy regime has disbanded the original electoral council and published a new election law which will allow soliders, but not independent observers, into polling stations. This is virtually a guarantee of electoral abuse.

The four candidates, who are estimated to control approximately 80 percent of the electorate, have demanded that the regime step down. They vow to unite together and boycott the balloting.

Still, the Department has not completely rejected the Haitian junta. Furthermore, it has refused to acknowledge the regime's complicity in the attacks on voters, polling places, and candidates, two of whom were murdered in the months leading up to the elections, one of them in front of the police headquarters that sits across from the Presidential Palace where Namphy works.

The United States has suspended military and nonhumanitarian aid to Haiti in light of the election day debacle. I urge the State Department to go further, and make plain to the Haitian junta that it will not acknowledge any council other than the original council, will not support any election organized by a council other than the original council, and will not recognize any president, senator or municipal official elected in Army-organized polling.

In addition, I join Chairman FASCELL and several other of my colleagues in supporting efforts to explore sending a mulitnational force to Haiti to monitor the January 17 election.

We cannot countenance any further trampling of the infant democratic movement in Haiti.

THE DECEMBER 16, 1987, ELECTIONS HELD IN THE REPUBLIC OF SOUTH KOREA

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. PARRIS. Mr. Speaker, I rise today in order to congratulate Mr. Roh Tae Woo on his victory in the December 16 balloting in South Korea. I would also congratulate the people of that great nation on the successful completion of this event, which brings them that much closer to the goal of full democratization. Particularly impressive is the fact that better than 90 percent of South Koreans participated in the voting and many of them actively participated in the campaigns prior to the elections—I only wish we could get that kind of interest in this country's elections process.

According to the U.S. State Department and a number of "unofficial" U.S. congressional staff observers, the voting appeared "to have been conducted in an open and orderly manner" and that "the opposite parties had elections observers at balloting and ballot-counting places." As for charges of widespread fraud, made by the unsuccessful candidates, the State Department has reported that it could find no evidence of such.

Those charges must, however, be addressed. I am hopeful that the Korean people will resolve their problems peacefully and through legal channels established under the presidential election law adopted in November 1987. Only then can the difficult process of reconciliation proceed.

Following the elections, Mr. Roh made a number of important and timely statements including an offer of general amnesty for political prisoners and a restated commitment to national reconciliation. I applaud Mr. Roh for those statements and take this opportunity to wish him Godspeed as he embarks on this most difficult task which lies ahead.

In closing, I would also offer praise to the opposition candidates for their hard work in making a positive contribution to the process and for their commitment to their respective ideals.

As time goes on, and further progress is made toward national reconciliation and full democratization, all South Koreans will come to know that in a truly democratic process there are no losers—only winners.

THANK YOU, BOB BERRY

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. MILLER of Ohio. Mr. Speaker, I want to join my House colleagues in paying tribute to the "voice of the House Chamber" for the past 18 years: Mr. Bob Berry.

As we all know, Bob is leaving Capitol Hill after nearly 29 years of service. He will be deeply missed. During his service as GOP reading clerk, Bob has distinguished himself by his diligence, his sense of responsibility and a working knowledge of the legislative process that has proven essential to the procedures of the Congress. We oftentimes tend to take certain functions—and persons—for granted in the midst of the legislative process. Bob has done his job so well and so completely over the years, that—frankly—we have tended to overlook the exemplary manner in which he has fulfilled his important responsibilities. Upon his retirement from the House, it is both fitting and appropriate that we—the beneficiaries of his good work—take the time to express our collective appreciation to a man who has earned our respect and admiration.

It is a pleasure and honor for me to join with my House colleagues in paying tribute to a public servant who has truly been a voice of democracy—each and every time the House assembles. Thank you, Bob, for a splendid job and for giving us the pleasure of working in the company of a true professional. I wish you the very best as you move to your new post.

AN EXCITING DAY AT THE WHITE HOUSE

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. COURTER. Mr. Speaker, I rise today to inform my colleagues of an excursion of the Trinity Bell Ringers of Hackettstown, NJ, this past Saturday, December 19. The bell ringers, of which my daughter Donica is a member, were asked to perform at the White House.

The bell ringers, under the care of Bertyl Glass, gave a lovely performance. The President and Mrs. Reagan hosted the event for military officers and their wives. The group had a wonderful time, and meeting the President made their trip extra special.

Those in attendance included Andrew Bernard, Michelle Bowers, Kimberly Cacchio, Donica Courter, Faith Fowler, Garrett Glass, Lovell Gordon, Scott Hammond, Steven Kinsey, David McGill, Cynthia Morgan, Arpana Naik, Melanie Russell, Darryll Sandrue, Heather Stirling, Tonya Stirling, Susan Thomson, Jennifer Vangolen, and Elizabeth Johnson.

Congratulations on a job well done!

AMALGAMATED BANK OF NEW YORK

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. RIDGE. Mr. Speaker, I would like to take this opportunity to share with my colleagues an important article on the Amalgamated Bank of New York published in the December 14, 1987, issue of the Wall Street Journal. As a member of the House Committee on Banking, Housing and Urban Affairs concerned with improving financial services for the American consumer, I was greatly impressed with the innovative, service-driven orientation of this bank. Owned by the 284,000 members of the Amalgamated Clothing & Textile Workers, the Amalgamated Bank of New York has a track record of 44 consecutive years of profit while providing unmatched, unparalleled service to its members. I sincerely hope that many of the financial chief executive officers across the Nation review this article and consider its message. Most importantly, the members of the Amalgamated Clothing & Textile Workers, its leadership and the employees of the Amalgamated Bank of New York deserve congratulations for such an achievement. Mr. Speaker, I want to invite my colleagues to read this informative article.

[From the Wall Street Journal, Dec. 14, 1987]

LABOR LENDING: HOW A UNION SURVIVES IN BANKING BY PUSHING SERVICES OVER PROFITS

(By Robert L. Rose)

NEW YORK.—When Amalgamated Bank of New York introduced a free checking account last fall, it wasn't content to quietly inform its customers. The bank bought an ad opposite the editorial page in the New York Times and asked: "Why is free checking only for those who can afford to pay for it?"

The bank's inclination to tweak its big corporate rivals isn't surprising. Amalgamated is a union bank, founded in 1923 by the Amalgamated Clothing Workers and still owned by the 284,000 members of its successor, the Amalgamated Clothing and Textile Workers.

Heralded as the wave of the future by labor leaders earlier in the century, labor banking was a flop. Out of some 36 labor banks founded in the 1920s, only Amalgamated in New York and Brotherhood Bank & Trust in Kansas City, Kan., survive as labor-owned institutions.

Now, with some labor experts predicting a comeback in union membership and influence, Amalgamated provides one of the oldest examples of a kind of labor-owned

business that may multiply. In the past several years, about half a dozen new labor banks have opened, and more are on the way. Like the clothing workers who started Amalgamated, other unions see a chance to own a bank friendly to their members' needs and find new investment outlets for their growing assets.

A ROGUE BANK

Amalgamated survived largely because its union owner insisted on conservative banking and professional management. In contrast, the Brotherhood of Locomotive Engineers set up banks across the country during the 1920s and quickly branched into securities and even Florida land development. Losses piled up, and the union eventually charged four of its officers with mishandling funds. By 1931, the engineers were out of the banking business.

Amalgamated has also benefited from being something of a rogue bank, loudly touting a consumer ethic and often de-emphasizing profits in favor of services. Its free checking account is only the latest evidence: Amalgamated claims to have pioneered the unsecured installment loan in the 1920s, lending money to borrowers with no collateral but a steady job. Three times a survey has named it the top bank for consumers in New York City. "They give me the best treatment," says Mike Garcia, an officer of the Leather Goods, Plastic and Novelty Workers' Union, who says he banks at Amalgamated because of its labor roots.

OVERLAPPING CONSTITUENCIES

Amalgamated has reported 44 consecutive years of profit and has grown to $1.47 billion in assets by serving two overlapping constituencies: middle-class consumers and organized labor. Now, the union-owned bank is exploring other ways to use its labor ties and financial muscle to expand in new areas.

Earlier this year, Amalgamated teamed up with Metropolitan Life Insurance Co. in a proposal to offer a comprehensive money-management program for the AFL-CIO's 14.5 million members. On a smaller but no less innovative scale, Amalgamated is helping three New York locals of the Bridge, Structural and Ornamental Iron Workers Union use some of their pension money to finance below-market, no-points home mortgages for their members. The bank is considering expanding the service to other unions, many of which have retirement trust funds under Amalgamated's care.

The recent mini-resurgence of labor banking is led by unions in the construction trades. Massachusetts members of the carpenters' union opened a Boston bank in September, and California carpenters plan to open a separate institution next year. Two-year-old Union Savings Bank in Albuquerque, N.M., another construction-trades bank, uses its $10 million in assets for loans to small businesses and other customers.

"I think there's been a realization that we should be generating jobs with our own money wherever possible," says Anthony Ramos, the retired former leader of the California State Council of Carpenters.

Amalgamated's loud voice on consumer issues is partly a marketing ploy to set itself apart from the pack. As other banks cater to big depositors and raise fees for small accounts, Amalgamated promotes treats for the little guy, such as its free checking and low-interest personal loans.

Highly conscious of its labor roots, Amalgamated also likes to take shots at the establishment banks. In one of its radio commercials, a stuffy banker tells a customer he needs a password to sit down. "The name of any Ivy League school will do," says the banker. P.S. 188?" asks the customer, naming the public school he attended. In other ads, comedians Jerry Stiller and Anne Meara imitate rank-and-filers with names like Rocco and Blanche, and pitch "America's Labor Bank."

"If we give [the industry] an uncomfortable feeling for a couple of hours, it will be worth it," concludes Edward M. Katz, Amalgamated's president and chief executive.

The bank's five-story brick headquarters, which it shares with its union owner, overlooks New York's Union Square, the site of labor and political rallies earlier in the century. Back in the old days, Amalgamated's services even included a travel agency and foreign-exchange desk for the immigrant population that dominated the clothing worker's union. Today, customers in open shirts and work boots outnumber those in business suits. Proclaims a plaque on the lobby wall: "New York's First Labor Bank, dedicated to the service and advancement of the labor movement."

Mr. Katz, too, is quick to prove his allegiance. After ushering a visitor into his office, he flips open his suit jacket and proudly shows the union label. A soft-spoken man of 66 who started as a part-timer at the bank in 1946, Mr. Katz raises his voice when he talks about how small depositors have fared under banking deregulation. Not too well, he believes. "When you have a special industry using Uncle Sam as an umbrella in times of difficulty, don't you owe something to the public?" he asks. "What would be so wrong with having an account on which you don't make money?"

Amalgamated, though is bucking a strong trend. A national survey conducted by the Consumer Federation of America and others found that fees for routine banking services are rising sharply for most depositors.

In some ways, Amalgamated has a lot less to offer those customers than its competitors. Small by big-bank standards, it doesn't generally offer credit cards or home mortgages. With only three branches and two newly opened automated teller machines, it lacks what many consumers want most: convenience. And in the ranks of big-league banks, Amalgamated is an also-ran, shunning such trends as interstate expansion and the hot competition for corporate loans.

"I'm not conscious of their presence" as a competitor, says Richard Ravitch, the chairman and chief executive of Bowery Savings Bank, which has about four times the assets and eight times the branches of Amalgamated. Contends another New York banking official: "If they were the best, they'd be bigger."

But what Amalgamated does have it pushes hard, especially its reputation as a low-cost consumer bank. Last year, when an annual survey by New York State Sen. Franz S. Leichter dropped Amalgamated to No. 11 from No. 1 as the least expensive bank for New York City consumers, Amalgamated officials phoned the legislator and angrily complained. (The bank is back up to No. 2 this year.) In 1985, the Better Business Bureau of Metropolitan New York challenged Amalgamated's boast of having the lowest auto-loan rates of any bank in the city. But the bank quickly backed up the claim, the bureau says.

Amalgamated says its current 9.2% interest rate on new auto loans is still the best in the city. According to the Bank Rate Monitor, seven of the largest bank and thrift institutions in the New York City area charge an average of nearly 12.5%. On the deposit side, the bank's 6.25% annual yield on money-market accounts is a third of a point higher than the average paid by 10 big institutions tracked by the monitor.

Amalgamated also pays interest and charges no fees on savings accounts with a $5 minimum. And it is not unusual for the bank to get thank-you notes from longtime customers surprised to find the bank honored their checks—and charged no penalty—on their overdrawn accounts.

Customers' main compaint centers on what bank employees call "the conga line" that often slowly snakes its way to 23 tellers in the lobby of the main office. Still, other factors outweigh the long waits, depositors say. Edward Soorko, for example, says he moved his account to Amalgamated after Citibank bounced a check for his son's tuition—even though he covered the check with a deposit the same day.

Charles Nabelle, a dapper 82-year-old customer in a white hat and sports coat, walks 13 blocks to get to Amalgamated's Union Square office. There are plenty of closer banks, but he says he chose Amalgamated because he likes the personal attention he gets there. After cashing a $40 check, Mr. Nabelle offers a short lecture on the importance of shopping for bank services. "A poor sucker will go for Chase Manhattan as opposed to Amalgamated because Chase or Citibank is an important bank," he says. "That is unfortunate."

And perhaps costly. Sen. Leichter's latest survey found that a typical bank customer with $500 in checking and $1,000 in savings would earn $105 in a year at Amalgamated and lose $100 in Manufacturers Hanover Trust Co. Amalgamated, says Glenn von Nostitz, the legislative aide who oversees the survey, shows "you can give people a break and still make money."

Not surprisingly, Amalgamated has kept a close relationship with organized labor. Unions account for up to two-thirds of its $1.1 billion in deposits, and its trust department holds an additional $3.2 billion in pension and health-and-welfare funds. Amalgamated manages $1.6 billion of the trust funds, shunning stocks and corporate bonds in favor of safer government securities.

In 1973, Amalgamated officials worked over a weekend to fill out hundreds of bail checks to keep striking Philadelphia teachers out of jail. Nine years later, when the National Football League Players Association ran out of money during its strike, it turned to Amalgamated for a $200,000 loan. The players' union didn't have an account with the bank at the time, but "we did after that," says Ed Garvey, then the union's executive director.

Although neither the Amalgamated Clothing and Textile Workers union nor the bank likes to admit it, the goal of giving consumers and unions a break often conflicts with the goal of making money. But Mr. Katz has the luxury of working for owners who aren't constantly pressing for higher profits. "You make a little less," concedes Jack Sheinkman, the president of the union and chairman of the bank. "Despite that, we've done very well in terms of our return on equity and on capital," which exceed the average for banks Amalgamated's size.

That attitude makes it easier for the bankers to concentrate on another priority of union—financial safety. The bank has a few corporate customers and, as a matter of

policy, turns down offers to participate with other banks in corporate lending. "I don't want to rely on my big brothers" to determine if a loan is safe, says Mr. Katz. Nor does he like to gamble on investments. Mr. Katz prefers buying U.S. government securities, and the shorter the maturity the better. "All the money's tied up in cash," jokes Howard Lee, the executive vice president and cashier.

The result is steady, if not spectacular, profits. Last year, Amalgamated earned $12.2 million, sending $7 million of that in dividends to its union owners. Government bank examiners often do double takes when they pore over Amalgamated's books. Bad loans charged off in 1986: $195,000 out of $313.5 million, far below the average for banks its size. Auto loans delinquent 30 days or more at the end of November: 11 out of 13,044.

Says William A. Goldberg, who runs the bank's personal-loan department: "We're here for the average guy—so long as we are reasonably assured he'll pay us back."

THE ROCKWALL, TX, YELLOWJACKETS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute and express appreciation to my hometown football team—the Rockwall, TX, Yellowjackets, to athletic director and head coach, Troy Miller, his coaching staff, Gary Johnson, Ronald Mays, Flint Risien, Dan Webb, Ed Stock, Todd Dodge, and Eric Mullins; to superintendent Jimmy Williams and faculty; to varisty cheerleaders, Ashley Dodd, Michele Botts, Penni Nichols, Kristen Taylor, Tisha May, My Ahn Hastings, Jill Pratt, Michele Kolodey, Elizabeth Clower, Melissa Saddler, Leigha Sparks, Tracy Schwaner, Casandra Brown and to Spirit Jacket: Dana Webester, to the junior varsity cheerleaders, Shawna Farmer, Shannon Shoquist, Lynn Peterson, Mandy Fulkerson, and Chrisde Marak, and their sponsor, Cynthia Webb, all joined by the Rockwall High School Stingerette officers: cocaptains Rebecca Harle and Cristy Meadows, first lieutenant, Lesley Lingnell, senior lieutenants Jill Davey, Cheryl, Haydicky, Dana Lee, and Junior lieutenants Erin Gordon, Brenda Barton, Jamie Adams, and Amy Roffino.

The Stingerette line members are:

Jamie, Adams, Amy Albritton, Missy Allan, Christy Anderson, Lisa Anderson, Brenda Barton, Alesha Bell, Dawn Berry, Sara Bothwell, Erika Bryant, Jana Burks, Jana Burnett, Barbara Capparelli, Erin Chenault.

Karen Clint, Cristy Crabtree, Jennifer Crow, Lesley Dyer, Shawna Dyer, Michelle Farley, Amy Florence, Jana George, Erin Gordon, Kandie Guerin, Da la Hannigan, Sydney Hansen, Kirsten Hinson, Amy Hopfer, Alicia Johnson, Kathy Klutts.

Ayn Krofchalk, Kristen Kupper, Margaret Lovell, Jenni Luiz, Monica Marietti, Summer Mark, Carla Mills, Nicole Mitchell, Monica Norman, Kathleen Northcutt, Aubrey Nutt, Lisa Palerno, Leslie Parish, Lucinda Pullen, Becky Reeves.

Amy Reeves, Michele Rhodes, Carey Riggsby, Amy Roffino, Kristen Smith, Sabra Stark, Kathy Stevens, Tiffany Stewart, Jenny Wall, Sharla Weatherall, Leah Weddle, Sherri Wheeler, Amy Williams, Natalie Wimpee, Julie Winters, Kristen Zaletsky.

The Stingerette managers are: Amy Knable, Torrye Knowles, Duana Lancaster, Suzanne Williamson.

This beautiful and talented group are sponsored by Diane Martin and Robin Moore.

Of course the Rockwall Super Band, with band directors Cathy Hill, Jay Back, Mike McGill, and Jim Whitfill, and the band, led by drum majors, Corbin Wilson and Michele Hammers, were an inspiring and integral part—matching the team in precision, performance, success and plain hard work. These leaders, along with the following band members, spurred our team on:

Craig Murray, Jeff Murray, Nicole Nemec, Heather Parker, Meredith Roy, Gina Burnett, Jennifer Johnson, Kay Sorrells, Tiffany Hebert, Kristie Jones, Eric Camp, Sean Eubanks, Jennie Freeman, Tonya Harbison, Brad Helmer, Greg Hudspeth.

Jenny McKinney, Tim Ottaway, Jason Overholt, Beth Quinn, Kevin Skoglund, Kenny Stephens, Terri Watkins, Cameron Wilson, David Wright, Dede Boyd, Renee Cecil, Matt Chambers, Suzette Curlee, Shane Elam, Amy Kennedy, Tracy Klepper.

Gianise Longoria, Jodelle MacAtangay, Paul Morris, Steve Myres, Cheri Rumbo, Jeff Wheatley, Missy Yarborough, Colleen Morale, Cricket Frazier, Chris Voss, Jason Austin, Scott Conner, Alfred Ellington, Andrew Kirk, Byran Klein, Mike Nichols.

Misty Sampson, Michael Simmons, David Hoye, Aaron Miller, Megan Quinn, Rocky Sexton, Michael Tarver, Pat Amini, Ranelle Bennett, Kevin Boyd, Kristine Burman, Kellee Cramer, Wendy Day, Diane Dazenko, Lisa Ethridge, Karen Garner, Diane Genrich.

Kristi Gillenwater, Jana Glass, Michele Hammers, Curt Hendley, Phyllis Herd, Hollie Jacobs, Kandy McCasland, Greg Neyman, Karen Petty, Cindy Rice, Jack Shelton, Marla Steinhoff, Mike Stidd, Whitney Tuttle, Amy Volpert, Chrissy Asberry.

Heather Brawand, Rozanne Cozart, Tricia Eakins, Allegra Eubanks, Jennifer Hooper, Kristina Ingram, Gene Lall, Donna Marburger, Michele Matz, Caydee McCormick, Sheri McCoy, Christi Miller, Kathy Petty, Teresa Powell, Dusty Roberts, Laura Vaughn.

Anne Yesconis, Billinda Harris, Jamie Harris, Sonya Meyers, Paula Moloney, Shahn Thornton, Shane Westbrook, John White, Corbin Wilson, Chris Collins, Jennifer Cook, Mike Garrett, Matt Good, Wayne Headen, Chris Hoofnagle, Derek Hurt.

Deanne Iglody, Michelle Lawson, Kyle Lovelady, Jimmy Malcolm, Mike Tremblay, Steve Whitmarsh, Brenda Wisdom, Meredith Wisdom, David Mizell, Jake Rehm, Randy Watson, David Welborn.

Mr. Speaker, when the football season started for district 5-AAAA, no one expected the Yellowjackets to do more than put up a good fight against other high-ranked district and northeast Texas teams, such as McKinney (State champion, 1979), Denison (State champion, 1984), Paris (ranked in the top 10 all year), Ennis, and others. To add to Yellowjacket concerns, there was a change in the head coaching position just before our season began—a season that would see us lose two of the first three games. Then—the cinderella-like climb began for Rockwall High School—one that led to the finals—a battle between the best team in north Texas, and the best team in south Texas. In this game there could be no loser and there was none. At the end of the 48 minute contest at Texas A&M Kyle Field last Saturday, the defending State AAAA champion, West Orange-Stark (ranked ninth nationally) had outscored our Jackets by a mere 10 points—17 to 7. No one in Rockwall feels that we suffered a defeat, but all feel that our team, week after week, performed a miracle—and I can't start to tell you how proud we all are of them. Our Yellowjackets are champions and the only reason Troy Miller should not be named "coach of the year" would be that he is named "coach of the century." The Yellowjackets, quarterbacked by Andy Hollon, are as follows:

Kevin Kaufman, Chad Keck, David Piepenburg, Daron Gillian, Keith Williams, Chris Burks, Dallas Eshelman Rodney Glaze, Kelly Johns, Robbie Birleson, Maika Hayes, Brandon Kennedy, Tony McGuire, Brian Thomas, Brant Gillen, Waymon Moore, Kris Mason, Byron Cromer, Brian McCormick, Jim White.

Ross Redden, Justin Hall, Dan Willess, David Gaffney, Gregg Coker, Brent Davis, Mike Grigsby, Scott Wischnewsky, Brian Helmer, Doug Johnson, Chris Ice, Robert Ward, Steve Aultman, Tim Walker, Dean Willess, Daron Ballew, Mark Van Dyne, John Garvin, Eric Towell, Chad Ghormley, and David Hooker.

The trainers are: Jim Harris, Mike Thomas, Gary Godwin, and the Rockwall High School principal is Ron Eubanks.

No one could be more proud of this team effort. Fans, parents, relatives, and supporters are all proud and pleased with our Yellowjackets. Mr. Speaker, as we adjourn today—and as we close out the first half of the 100th Congress—let us adjourn in recognition of the Rockwall Fighting Yellowjackets of 1987—the team who never quit—who were winners on the gridiron and will certainly be winners and leaders in the years that are ahead of them.

H.R. 3777—CRIMINAL JUSTICE REFORM ACT OF 1987

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. GEKAS. Mr. Speaker, on December 16, 1987, I was joined by eight of my colleagues in introducing H.R. 3777, the Criminal Justice Reform Act of 1987, on behalf of the administration.

This proposed legislation will complete the major crime prevention initiative originally proposed by the administration during the 98th Congress—an initiative which has already seen enactment of many criminal justice reforms as part of the Comprehensive Crime Control Act of 1984.

The three measures contained in this bill are extremely important for those wish to see

crime abated in this country. First, there is reform of the exclusionary rule that would permit the introduction at trial of evidence seized under circumstances justifying an objectively reasonable belief that the search or seizure was in conformity with the fourth amendment of the Constitution. This is the so-called good faith exception. Second, the bill would reform the exercise of the habeas corpus writ in order to minimize its interference with the criminal justice systems of the States and to promote finality. Third, the bill provides constitutional procedures for the imposition of the death penalty in Federal capital offenses.

Law enforcement can prevent crime only if we give it tools which are proper for the task. The reforms contained in this proposed legislation provide measures which are critically important to law enforcement's responsibility. Measures such as are contained in this bill—reforms of the exclusionary rule, habeas corpus, and capital punishment—have already been passed in the Senate as separate bills by large majorities. Legislation to provide the death penalty for those who commit murder during the course of a continuing drug enterprise, which is part of this bill, was passed overwhelmingly by the House three times during the 99th Congress as an amendment to the Anti-Drug Abuse Act of 1986.

I appreciate, as we all do, the general support that exists for these important proposals and hopefully this heavy weight of public opinion will be the best incentive for their expeditious consideration.

Mr. Speaker, America has been waiting for the reestablishment of an equilibrium within our criminal justice system that will protect the interests of the law-abiding to the same extent that those of the criminal are considered. Passage of this bill will move a long way toward that goal and I urge my colleagues to join me in prompting early action.

A section-by-section analysis of H.R. 3777 follows:

H.R. 3777—CRIMINAL JUSTICE REFORM ACT OF 1987—SECTION-BY-SECTION ANALYSIS

The proposed Criminal Justice Reform Act of 1987 would enact a number of important reforms in the operation of the federal criminal justice system. Title I would revise standards relating to the admission of evidence obtained through searches and seizures. Title II would amend the procedures for collateral review of criminal judgments, including federal habeas corpus review of state judgments and the corresponding collateral remedy for federal prisoners. Title III would establish constitutionally sound procedures and standards for the imposition of capital punishment for especially heinous federal crimes.

TITLE I—EXCLUSIONARY RULE

Title I of the Criminal Justice Reform Act would (1) generally bar the exclusion of evidence obtained in circumstances justifying an objectively reasonable belief that a search or seizure was in conformity with the Fourth Amendment, and (2) clarify that evidence cannot be excluded on the basis of non-constitutional violations unless such exclusion is expressly authorized by law.

The principal reform proposed in Title I—an objective reasonableness standard for the admission of evidence—is very similar to exclusionary rule reform legislation that was passed by the Senate as S. 1764 in the 98th Congress and by the House of Representatives as section 673 of H.R. 5484 in the 99th Congress. A detailed discussion of the policy issues raised by this reform appears in the Senate Judiciary Committee's report on S. 1764 (S. Rep. No. 350, 98th Cong., 2d Sess. (1984)). The ensuing analysis briefly describes and explains the provisions of Title I.

Section 102 of Title I would add a new section 3508 to the federal criminal code. Subsection (a) of proposed section 3508 provides that evidence shall not be excluded in any federal proceeding on the ground that a search or seizure was in violation of the Fourth Amendment if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the Fourth Amendment. This would apply the underlying principle of *United States* v. *Leon*, 468 U.S. 897 (1984), so as to bar the exclusion of evidence obtained in such circumstances in cases involving warrantless searches, as well as in cases involving searches pursuant to a warrant. Th Leon decision specifically barred the suppression of evidence obtained in conformity with a warrant in circumstances justifying an objectively reasonable belief in the warrant's validity, noting that excluding evidence where an officer's conduct is objectively reasonable "will not further the ends of the exclusionary rule in any appreciable way; for it is painfully apparent that . . . the officer is acting as a reasonable officer would and should act in similar circumstances. Excluding the evidence can in no way affect his future conduct unless it is to make him less willing to do his duty." Leon, 468 U.S. at 920.

This principle has already been applied for several years by the federal courts in the Fifth and Eleventh Circuits in deciding on the admissibility of evidence obtained through searches and seizures in both warrant and non-warrant cases. See *United States* v. *Williams*, 622 F.2d 830 (5th Cir. 1980). The standard of objective reasonableness is also uniformly applied in determining an officer's exposure to civil liability based on an allegedly unlawful search or seizure. See *Anderson* v. *Creighton*, —— U.S. ——, No. 85-1520 (June 25, 1987).

Subsection (a) of proposed section 3508 perpetuates as a special case the specific holding of *United States* v. *Leon*, supra, that evidence is not subject to suppression if obtained in objectively reasonable reliance on a warrant. As in Leon, the circumstances relevant to the determination of objective reasonableness in warrant cases under subsection (a) would include the circumstances under which the warrant was obtained as well as the circumstances under which it was executed. See Leon, 468 U.S. at 923 n.24.

Subsection (a) also provides specifically that the fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of circumstances justifying an objectively reasonable belief that a search or seizure was in conformity with the Fourth Amendment. This reflects the fact that "[i]n the ordinary case, an officer cannot be expected to question the magistrate's probable-cause determination or his judgment that the form of the warrant is technically sufficient." Leon, 468 U.S. at 897. Thus, the fact that evidence was obtained in conformity with a warrant would be adequate to establish objective reasonableness in the absence of rebuttal by the defendant, such as a showing that the issuance of the warrant was predicated on a fraudulent affidavit or that the warrant was so patently deficient on its face that an officer could not reasonably believe it to be valid. See generally Leon 468 U.S. at 922-23.

Subsection (b) of proposed section 3508 would bar the exclusion of evidence on the basis of non-constitutional violations, except as expressly authorized by statute or by a rule promulgated by the Supreme Court pursuant to statutory authority. Given the high price of the exclusionary rule to the truth-finding process, and the fact that the rule is not even applied in relation to the constitutional violations in light of the Leon decision and other Supreme Court decisions, it is desirable to codify explicitly the principle that evidence may not be excluded on the basis of non-constitutional violations in the absence of statutory authority for doing so. This restriction on the exclusion of evidence is already implicit in the broader rule of Federal Rule of Evidence 402, which provides the "[a]ll relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by Act of Congress, by these rules, or by other rules prescribed by the Supreme Court pursuant to statutory authority." Subsection (b) would clarify the import of the principle of Rule 402 in relation to evidence obtained in violation of non-constitutional provisions.

The value of such clarification is illustrated by the case of *United States* v. *Caceres*, 440 U.S. 741 (1979), in which a defendant accused of bribing an IRS agent attempted to secure the exclusion of evidence of his guilt on the ground that procedures specified in IRS regulations had not been complied with in obtaining the evidence. Under the plain terms of Rule 402, this argument should have been rejected summarily as an effort to secure the exclusion of relevant evidence in circumstances in which exclusion was not provided for by "the Constitution . . . by Act of Congress, by [the] rules [of evidence], or by other rules prescribed by the Supreme Court pursuant to statutory authority." The Supreme Court did reject the defendant's effort to create an exclusionary rule for violations of IRS regulations, but declined to address the government's argument that this result was required by Rule 402. See 440 U.S. at 755 & n. 22.

While the Supreme Court reached a result consistent with Rule 402 for independent reasons in the Caceres decision, it failed to produce any directive to the inferior courts to comply with the terms of that rule. Efforts by defendants to secure the exclusion of relevant and probative evidence of their guilt on the basis of alleged violations of non-constitutional provisions have accordingly continued to be a source of litigation in the lower courts. Subsection (b) would foreclose such litigation in the absence of a decision by Congress or by the Supreme Court pursuant to its statutory rulemaking authority to authorize the use of the exclusionary sanction and would ensure consistent compliance with the principle of Rule 402 in this context in future judicial decisions.

Subsection (c) of proposed section 3508 states that the section shall not be construed to require or authorize the exclusion of evidence in any proceeding. This makes it clear that the section is not to be construed as reflecting legislative approval of the exclusion of evidence as a sanction for official misconduct in any circumstances, and that the section's rules which explicitly bar the exclusion of evidence in certain circumstances should not be understood as implying that the exclusion of evidence is appro-

priate or permissible in other circumstances. The Supreme Court has recognized a number of important exceptions to the application of the exclusionary rule which are not confined to the "objective reasonableness" situation, including holding that the exclusionary rule is wholly inapplicable in grand jury and deportation proceedings and generally inapplicable in habeas corpus proceedings, see *United States* v. *Calandra*, 414 U.S. 338 (1974); *INS* v. *Lopez-Mendoza*, 468 U.S. 1032 (1984); *Stone* v. *Powell*, 428 U.S. 465 (1976), and that evidence inadmissible at trial in the government's case in chief under the exclusionary rule may nevertheless be used for impachment, see *Walder* v. *United States*, 347 U.S. 62 (1954). In light of subsection (c), there would be no basis for arguing that these broader limitations of the exclusionary rule should be restricted or reconsidered in light of proposed section 3508, or that it would be inappropriate for the courts to create other broader limitations on the exclusionary rule in the future.

TITLE II—HABEAS CORPUS

Title II would amend various provisions of title 28, United States Code, and a related Rule of Appellate Procedure, concerning the availability of collateral relief in the federal courts for state and federal prisoners. Among the matters addressed by these amendments are the standard of review in habeas corpus proceedings, the effect of procedural defaults on the subsequent availability of collateral relief, the time within which collateral relief may be sought, the requirement of exhaustion of state remedies, and the procedure on appeal in collateral proceedings.

The proposal is generally the same as S. 1763 of the 98th Congress, which was reported by the Senate Judiciary Committee and passed by the full Senate by a vote of 67 to 9 in 1984. The ensuing section-by-section analysis briefly describes the various provisions of title II. The Senate Judiciary Committee's report on S. 1763 (S. Rep. No. 226, 98th Cong., 1st Sess. (1983)) provides a more detailed explanation as well as extensive analysis of the policy issues addressed in the legislation.

Section 202 of title II would add two new subsections to section 2244 of title 28, United States Code. Proposed section 2244(d) relates to the effect of a state prisoner's failure to raise a claim properly in state proceedings on the subsequent availability of federal habeas corpus. Proposed subsection (d)(1) of section 2244 sets out a general standard under which such a procedural default would bar access to federal habeas corpus unless it was the result of state action in violation of federal law. Attorney error or misjudgment in failing to raise a claim properly would excuse a procedural default under this standard if it amounted to constitutionally ineffective assistance of counsel, but lesser degrees of attorney error or misjudgment would not excuse a default. See *Murray* v. *Carrier*, 106 S. Ct. 2639, 2645-46 (1986). Proposed subsection (d)(2)-(4) of section 2244 further provides for excuse of a procedural default where a claim raised in a habeas corpus proceeding asserts a new, retroactive right subsequently recongized by the Supreme Court, where the factual predicate of the claim could not have been discovered prior to the default through the exercise of reasonable diligence, or where a constitutional violation asserted in the claim has probably resulted in a factually erroneous conviction or a sentence predicated on an erroneous factual determination. Proposed section 2244(d) is generally a codification and clarification of the existing caselaw standards governing the excuse of procedural defaults in collateral proceedings. See *Murray* v. *Carrier*, 106 S. Ct. at 2644-46, 2650; *Smith* v. *Murray*, 106 S. Ct. 2661, 2668 (1986).

Proposed new section 2244(e) in section 202 of the bill would establish a one year time limit on applications for federal habeas corpus, normally commencing at the time state remedies are exhausted. This would provide state defendants with ample time to seek federal review following the conclusion of state proceedings, but would avoid the acute difficulties of proof that currently arise when federal habeas corpus is sought by a prisoner years or decades after the state trial. The proposed limitation rule may be compared to various existing time limits on seeking review or re-opening of criminal judgments in the federal courts, such as the normal ten day limit on appeals by federal defendants under Fed. R. App. P. 4(b); the normal sixty day limit on a state defendant's application for direct review in the Supreme Court under Sup. Ct. R. 20; and the two year limit on motions for new trials based on newly discovered evidence under Fed. R. Crim. P. 33. Proposed section 2244(e) further provides for deferral of the start of the limitation period in appropriate cases, such as assertion of newly recognized rights or newly discovered claims.

Section 203 of the bill would amend section 2253 of title 28, United States Code, so as to vest in the judges of the courts of appeals exclusive authority to issue certificates of probable cause for appeal in habeas corpus proceedings. It would also create an identical certificate requirement for appeals by federal prisoners in collateral relief proceedings pursuant to section 2255 of title 28, United States Code. This would implement recommendations of Judge Henry Friendly of the Second Circuit Court of Appeals. See Friendly, Is Innocence Irrelevant? Collateral Attack on Criminal Judgments, 38 U. Chi. L. Rev. 142, 144 n.9 (1970). The reform would correct inefficiencies of the current system under which an appellate court is obliged to hear an appeal on a district court's certification, though it may believe that the certificate was improvidently granted, and under which a prisoner is afforded duplicative opportunities to persuade first a district judge and then an appellate judge that an appeal is warranted. Section 204 of the bill would amend Fed. R. App. P. 22 to conform it to the amendments of section 203.

Section 205 of the bill would make various changes in section 2254 of title 28, United States Code. Section 205(a) would amend current section 2254(b) to clarify that a habeas corpus petition can be denied on the merits notwithstanding the petitioner's failure to exhause state remedies. This would implement a recommendation of Professor David Shapiro. See Shapiro, Federal Habeas Corpus: A Study in Massachusetts, 87 Harv. L. Rev. 321, 358-59 (1973). It would avoid the waste of state and federal resources that presently results when a prisoner presenting a hopeless petition is sent back to the state courts to exhaust state remedies.

Section 205(c) of the bill would add a new subsection (d) to section 2254, United States Code. Proposed subsection (d) would accord deference to the result of full and fair state adjudications. This may be compared to the standard of review stated by the Supreme Court in the case of Ex Parte Hawk, 321 U.S. 114, 118 (1944), prior to the unexplained substitution of the current rules of mandatory re-adjudication by the decision in *Brown* v. *Allen*, 344 U.S. 443 (1953). To be full and fair in the intended sense the state court determination must be reasonable, and must be arrived at by procedures consistent with applicable federal law, including the constitutional requirement of due process. In addition, re-adjudication by the federal habeas court would be allowed in cases in which new evidence of substantial importance came to light or a retroactive change of law of substantial importance occurred after the state proceedings. *See* S. Rep. No. 226, 98th Cong., 1st Sess. 24-27 (1983).

Section 205(b) of the bill would simplify current section 2254(d), which is verbose, confusing, and obscure; redesignate it as section 2254(e); and bring its formulation into conformity with that of proposed new section 2254(d). This provision would be of minor practical significance, coming into play only when the general standard governing deference to state determinations in proposed new section 2254(d) was found by the habeas court to be unsatisfied.

Section 206 of the bill would amend section 2255 of title 28, United States Code. It would carry out reforms in the collateral remedy for federal prisoners comparable to the rules proposed in section 202 of the bill governing excuse of procedural defaults and time limitation in habaes corpus proceedings.

TITLE III—CAPITAL PUNISHMENT

Title III would provide procedures to permit the death penalty for certain heinous federal offenses. Although various provisions of the United States Code now authorize the imposition of the sentence of death for crimes of homicide, treason, and espionage, in most instances these sentences have been unenforceable because they fail to incorporate a set of legislated guidelines to guide the sentencer's discretion in coming to a determination whether the sentence of death is merited in a particular case. This requirement was first articulated by the Supreme Court in its decision in *Furman* v. *Georgia*, 408 U.S. 238 (1972). In a series of decisions following Furman, the Court has given further guidance on the constitutional requisites of a statute authorizing the imposition of capital punishment. Notable in this series of cases was a group of landmark death penalty decisions—*Gregg* v. *Georgia*, 428 U.S. 153 (1976); *Proffitt* v. *Florida*, 428 U.S. 242 (1976); *Jurek* v. *Texas*, 428 U.S. 262 (1976); *Woodson* v. *North Carolina*, 428 U.S. 280 (1976); and *Roberts* v. *Louisiana*, 428 U.S. 325 (1976)—in which the Court held that the death penalty was a constitutionally permitted sanction if imposed under certain procedures and criteria which guarded against the unfettered disretion condemned in Furman, but which retained sufficient flexibility to allow the consideration of aggravating and mitigating factors in each case.

In the fifteen years since the *Furman* decision, forty-one of the fifty states have enacted laws to restore the availability of the death penalty as a sanction for the most serious crimes. During the same period, Congress has on several occasions considered legislation to provide constitutional procedures that would permit the restoration of the death penalty to the federal criminal justice system, but with the exception of a death penalty provision included in anti-aircraft hijacking legislation in 1974, no such statute has been passed by the Congress.

In the 97th, 98th and 99th Congresses, the Senate Judiciary Committee devoted considerable effort to the development of legislation that would establish constitutional procedures for the imposition of the death penalty at the federal level. In the 98th Congress the Committee reported a bill, S. 1765, which was very similar to the Administration's death penalty proposal of the same vintage (S. 829). It incorporated provisions to comport with the Superme Court's capital punishment decisions over the past several years and passed the Senate by a vote of 63-32. In the 99th Congress, the Senate Judiciary Committee favorably reported a death penalty bill, S. 239, which closely resembled S. 1765, but no further action was taken on this measure or on a House-passed death penalty, in H.R. 5484, which included similar procedures although limited in scope to killings in the course of a continuing drug enterprise offense.

The section-by-section analysis below briefly describes the various provisions of title III. The Judiciary Committee's Reports on S. 1765 (S. Rep. No. 251, 98th Cong., 1st Sess. (1983) and S. 239 (S. Rep. No. 282, 99th Cong., 2d Sess. (1986)) provide a more detailed analysis as well as a lengthy discussion of the policy and constitutional issues addressed in this legislation.

Section 302 adds a new chapter 228 to title 18 of the United States Code consisting of sections 3591 through 3597, and makes necessary technical amendments. These sections provide that the punishment for certain crimes may extend to the death penalty and set forth the procedures for determining whether the death penalty should be imposed in a particular case involving a conviction of such a crime.

Section 3591 sets out the offenses for which the death penalty may be imposed if, after consideration of the mitigating and aggravating factors applicable to the case in a post-verdict hearing (described in subsequent sections), it is determined that the impositon of death is justified. The offenses are treason, espionage, certain types of homicides, and an attempt to kill the President of the United States under specified circumstances. The circumstances justifying the death penalty for attempted Presidential assassination are that the attempt resulted in bodily injury to the President or came dangerously close to causing the President's death.

The homicides for which the death penalty may be imposed are described in subsection 3591(c). They are those in which the defendant intentionally killed the victim (subsection 3591(c)(1)), those in which the defendant intentionally participated in an act contemplating that life would be taken or intending that lethal force would be used in connection with someone other than a participant in the crime and as a direct result of the act the victim died (subsection 3591(c)(2)), and those in which the defendant intentionally and significantly participated in an act, knowing that the act created a grave risk of death to a person other than a participant such that participation in the act constituted a reckless disregard for human life, and the victim died as a direct result (subsection 3591(c)(3)). Those threshold criteria limit the death penalty to defendants with a high degree of culpable responsibility for the harm or attempted harm and are designed to meet the constitutional requirements under *Coker* v. *Georgia*, 433 U.S. 584 (1977), *Edmund* v. *Florida*, 458 U.S. 782 (1982), *Cabana* v. *Bullock*, 106 S. Ct. 689 (1986), and *Tison* v. *Arizona*, ——U.S.——, No. 84-6075 (April 21, 1987).

The language in subsections 3591(c)(1) and 3591(c)(2) was contained in similar death penalty bills considered in previous Congresses. The language in subsection 3591(c)(3) was added because of the holding in the recent Tison case, which further explained the degree of culpability required to justify the death penalty in felony murder cases as set out in the earlier Edmund decision. Tison allowed the death penalty to be imposed in cases where the defendant was a major participant in the crime that resulted in the homicide and showed a reckless indifference to human life. Specifically, Tison held "that the reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death represents a highly culpable mental state, a mental state that may be taken into account in making a capital sentencing judgment when that conduct causes its natural, though also not inevitable, lethal result." (Slip op., p. 20.) Subsection 3591(c)(3) codifies the Tison holding. It does not require that the government prove the defendant knew that his act met the legal criteria for reckless disregard for human life, merely that his act in fact involved such a disregard. Moreover, the term "act" as used in subsection 3591(c)(3), like the term "act" in subsection 3591(c)(2), is not limited to a single specific act such as pulling a trigger. Rather, it includes a series of acts or a course of conduct such as loading a gun just prior to a bank robbery, handing it to an accomplice while the robbery is in progress, and forcing bank tellers against a wall where the accomplice shot them to death.

Section 3591 precludes imposition of the death penalty on a person who was less than eighteen years old at the time of the offense. This limitation is not constitutionally required and in prior versions of the bill such youth was only a mitigating factor. However, this bill follows the most recent capital punishment bill approved by the Senate Judiciary Committee and does not allow the imposition of the death penalty on a person who committed the offense when less than eighteen years of age.

Section 3592 sets forth the statutory mitigating and aggravating factors to be considered by the jury or judge in determining whether a sentence of death is justified upon conviction of a crime for which the sentence is authorized. The section also allows, consistent with Supreme Court decisions, for the consideration of any other aggravating or mitigating factor, not listed in the section, which might affect such a determination. See *Skipper* v. *South Carolina*, 476 U.S.——1986); *Lockett* v. *Ohio*, 438 U.S. 586 (1978); *Barclav* v. *Florida*, 463 U.S. 939 (1983); *Zant* v. *Stephens*, 462 U.S. 862 (1983).

Subsection (a) sets forth three mitigating factors which must be considered. They are that the defendant's mental capacity was significantly impaired although not so impaired as to constitute a defense, that the defendant was under unusual and substantial duress although not such as to constitute a defense, and that the defendant was an accomplice whose participation in the offense was relatively minor. Subsection (a) further states that the jury or judge shall also consider whether other mitigating factors exist.

Subsection (b) sets forth the aggravating factors for treason and espionage. They are that the defendant has previously been convicted of an offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute, that the defendant knowingly created a grave risk of substantial danger to the national security, and that the defendant knowingly created a grave risk of death to another person.

Subsection (c) sets forth the aggravating factors for the homicide offenses and for the attempted murder of the President. They are (1) that the death occurred during the commission, attempted commission, or the immediate flight from the commission, of one of several exceptionally dangerous crimes such as escape from prison, a murder by a prisoner serving a life sentence, aircraft hijacking, certain explosive offenses, and espionage; (2) that the defendant has previously been convicted of another federal or state offense resulting in death for which life imprisonment or death was authorized; (3) that the defendant had previously been convicted of two or more federal or state offenses, committed on different occasions, each involving the infliction or attempted infliction of serious bodily injury and each punishable by imprisonment for more than one year; (4) that the defendant in the commission of the offense knowingly created a grave risk of death to one or more persons in addition to the victim; (5) that the defendant committed the offense in an especially heinous, cruel, or depraved manner;[1] (6) that the defendant procured the commission of the offense by paying or promising to pay anything of pecuniary value; (7) that the defendant committed the offense for receiving or in the expectation of receiving something of pecuniary value; (8) that the defendant committed the offense after substantial planning and premeditation; (9) that the victim was particularly vulnerable due to old age, youth, or infirmity; and (10) that the defendant committed the offense against certain specified public officials.

It should be noted that subsections (b) and (c) do not define the instances where the death penalty is authorized. This authorization is in the penalty provision for each individual capital offense and generally carries forward the provisions in the current statutes that are or may be unenforceable due to the aforementioned constitutional procedural problems. The offenses in current law that are changed to capital offenses by this title are the murders of certain foreign officials under 18 U.S.C. 1116, kidnaping where a death results, murders for hire or in aid of racketeering, murders of American hostages abroad, terrorist murders of American nationals abroad, causing death while engaged in a continuing drug enterprise, and attempted assassination of the President. In addition, section 310 of title III creates a new Federal capital offense of murder committed by a Federal prison inmate serving a life sentence. The factors listed in subsections (b) and (c) merely specify the aggravated instances in which the commission of a capital offense will permit a jury to determine whether the death penalty is justified.

Section 3593 sets out the procedure for a special hearing to determine whether a sentence of death is justified. At the conclusion

[1] This aggravating factor encompasses situations involving "torture, aggravated battery, the deliberate prolonging of suffering, or the serious physical abuse of the victim before inflicting death." S. Rep. No. 251, 98th Cong., 1st Sess. 5. It would also cover other situations involving unusual, extraordinary depravity, such as "the execution style killing of a stranger for the thrill of it or the extended terrorizing of a victim before execution." Id. at 6.

of the hearing the jury (or, as will be explained, in some cases the judge) will return a finding as to whether the sentence of death is justified.

Subsection 3593(a) provides that if the attorney for the government believes that the circumstances of one of the offenses for which the death penalty is authorized (the offenses set out in section 3591) justify the imposition of the death penalty, he or she must file with the court and serve on the defendant a notice of this conclusion and set forth the aggravating factors (including any statutorily enumerated) the government proposes to show at the hearing. The notice must be filed and served on the defendant a reasonable time before trial or the accepting of a guilty plea or at such time thereafter as the court may permit upon a showing of good cause. The notice provision is intended to give adequate notice to the defendant so he can prepare for the post-conviction sentencing hearing and to ensure an appropriate voir dire that comports with applicable Supreme Court cases.

Subsection 3593(b) provides that if the attorney for the government has filed the notice required by subsection (a) and if the defendant is found guilty, a sentencing hearing shall be conducted by the judge who presided at trail or accepted the guilty plea or by another judge if the first one is unavailable. No presentence report is to be prepared in such a case inasmuch as the issue at the hearing is the existence of aggravating or mitigating factors and the justifiability of imposing the death sentence, and the issue is to be determined based solely on the information presented at the hearing. The hearing is to be conducted before the jury that determined the defendant's guilt, except that a jury may be impaneled for the purpose of the sentencing hearing in a case in which the defendant was convicted on a trial to the court or on a plea of guilty, in a case in which the original jury was discharged for good cause, or in a case where reconsideration of the sentence is necessary. This subsection also provides that the defendant may move that the sentencing hearing be conducted before the court alone but that the attorney for the government must concur. In the absence of this concurrence by the government, the sentencing hearing is before a jury.

Subsection 3593(c) deals with proof of the aggravating and mitigating factors. Any information relevant to the sentence may be presented including information concerning any mitigating or aggravating factor permitted or required to be considered under section 3592. The information may consist of trial transcripts and exhibits or relevant parts thereof if the hearing is before a jury or judge not present during the trial. Other relevant evidence may be presented regardless of its admissibility under the rules of evidence, except that the court may exclude information if its probative value is outweighed by the danger of its creating unfair prejudice, confusing the issues, or misleading the jury. The burden of establishing an aggravating factor is on the government and the standard of proof for such a factor is beyond a reasonable doubt. The defendant has the burden of establishing any mitigating factor but this burden is satisfied if the defendant proves such a factor by a preponderance of the evidence.

Subsection 3593(b) deals with the return of special findings required in the sentencing hearing. It provides that the jury, or if there is no jury, the court, must consider all the information received at the sentencing hearing. The jury, or if there is no jury, the court must return a special finding as to each aggravating or mitigating factor concerning which evidence was received at the hearing. In cases where there is a jury, the special finding must indicate that the jury has found the existence of some mitigating or aggravating factor required to be considered by section 3592 by a unanimous vote, although it is not necessary that there be a unanimous vote on any specific mitigating or aggravating factor. A specific mitigating or aggravating factor can be established if at least nine members of the jury finds the existence of that factor. In cases where evidence of more than one mitigating or aggravating factor is introduced, simple fairness to both the government and the defendant requires that an aggravating or mitigating factor be considered established if at least nine of the twelve jurors find a particular factor, but cannot reach unanimous agreement as to which one, provided they reach unanmious agreement that *some* such factor has been established. Unanimity as to the presence of a particular aggravating or mitigating factor is not constitutionally required because the presence or absence of any one such factor is not determinative of whether the death penalty should or should not be imposed. In *Poland* v. *Arizona*, 106 S. Ct. 1749 (1986), the Court considered the fact-finding process engaged in during the sentencing phase of capital cases under Arizona law and stated it was "not prepared to . . . view the capital sentencing hearing as a set of mini-trials on the existence of each aggravating factor. . . . Aggravating circumstances are not separate penalties or offenses, but are 'standards to guide the making of [the] choice' between the alternative verdicts of death and life imprisonment . . ." 106 S. Ct. at 1755. Moreover, the Court has held that juror unanimity even on the question of guilt or innocence is not essential to the right to a trial by jury. See *Apodaca* v. *Oregon*, 406 U.S. 404 (1972).

Subsection 3593(e) provides that if one or more of the statutorily required aggravating factors is found to exist (a constitutional requirement under *Zant* v. *Stephens* and *Barclay* v. *Florida*, supra) the jury, or the court if there is no jury, must then consider whether all the aggravating factor or factors which it has found outweigh all mitigating facors which it has found, or, if no mitigating factor has been found, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based on this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

Subsection 3593(f) is designed as a special precaution against discrimination by the jury against the defendant on the basis of the defendant's or the victim's race, color, national origin, creed, or gender. It provides that in a sentencing hearing in which the death penalty is sought, the jury shall be specifically instructed that it must not consider these factors. Moreover, the jury must return to the court a certificate signed by each juror stating that consideration of these factors was not involved in his or her individual decision.

Section 3594 provides that if the jury, or the court if there is no jury, returns a finding that a sentence of death is justified, the court must sentence the defendant to death. If, however, the finding was that no statutorily required aggravating factor was found to exist, or that even if such a factor was found a sentence of death was not justified, the court shall impose any sentence other than death authorized by law. This section also provides that notwithstanding any other provision of law, life imprisonment without parole is an authorized sentence for a conviction of an offense punishable by death if the maximum term of imprisonment for such an offense is life.

Section 3595 sets out the rules applicable to appeals from the imposition of the death sentence. A sentence of death shall be subject to review by the court of appeals upon an appeal of the sentence by the defendant. Notice of appeal of the sentence must be filed within the time for the filing of a notice of the appeal of the conviction. This permits the court to consolidate the appeal of the sentence and the appeal of the conviction, and such consolidation is explicitly provided for. The review of a case in which the death sentence has been imposed must be given priority over all other cases. The court of appeals must consider the entire record including the evidence submitted at trial, the information submitted during the sentencing hearing, the procedures employed at the sentencing hearing, and the special findings returned at the sentencing hearing as to the existence of the aggravating and mitigating factors. The court of appeals must affirm the sentence if it finds that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, and the information supports the special findings of the existence of an aggravating factor or factors. See *Zant* v. *Stephens*, supra (death sentence valid even if an aggravating factor is invalidated or dound inapplicable on appeal, provided at least one valid statutory aggravating factor remains). Proportionality review with other death cases is not a part of the review process. *Pulley* v. *Harris*, 465 U.S. 37 (1984).

In all other cases, the court of appeals must remand the case for reconsideration under section 3593 or for imposition of another authorized sentence, as appropriate. The court of appeals must state in writing the reasons for its disposition of an appeal of a sentence of death.

Section 3596 is concerned with the implementation of a sentence of death. A person sentenced to death shall be committed to the custody of the Attorney General pending completion of the appeal and review process. When the sentence is to be implemented, custody of the person would be given to a United States Marshal who would then supervise the implementation of the penalty in accordance with the law of the State in which the sentence is imposed. If that State has no death penalty, the court would designate another State which does have such a penalty and the execution would be carried out in the manner prescribed in that State. This part of the section generally carries forward a portion of the provisions of present section 3566 of title 18. This section also states that a sentence of death shall not be carried out on a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person (this implements the constitutional bar on execution of the mentally incompetent, see *Ford* v. *Wainwright*, — U.S. — (1986)) or on a woman while she is pregnant.

Section 3597 carries forward other parts of current section 3566 by authorizing the United States Marshal charged with implementing the sentence of death to use State facilities and to pay the costs thereof.

Section 303 of title III applies the procedures of the new chapter 228 concerning the death penalty to violations of chapter 2 of title 18 dealing with the destruction of or damage to aircraft and motor vehicles where death results. Such violations are punishable by death under current law but the penalty is unavailable due to the previously discussed procedural problems.

Section 304 prescribes the scope of the availability of the death penalty for espionage. In accordance with the view reflected in prior bills that the death penalty is both constitutional and appropriate for this offense, the penalty is retained as a possible punishment for peacetime espionage where it concerns certain major military matters, such as nuclear weapons or satellites which directly affect national defense. The death penalty, of course, remains applicable under 18 U.S.C. 794(b) to any instance of wartime espionage.

Sections 305, 306, and 307 apply the sentencing procedures of the new chapter 228 to three serious explosive offenses where death results. These sections, all of which deal with deliberate property destruction by explosives or the transportation of explosives in interstate commerce for the purpose of injuring persons or property, currently provide for the death penalty, but the penalty is unenforceable.

Section 308 applies the new death penalty procedure to the offense of first degree murder committed in the special maritime and territorial jurisdiction. Such a crime is presently punishable by the unenforceable death penalty provisions of current law.

Section 309 amends 18 U.S.C. 1116(a) to provide for the death penalty for the first degree murder of a foreign official, an official quest of the United States, or an internationally protected person. This offense was created after the Furman decision and so has not previously included the death penalty as a possible punishment. However, this section makes the penalty for this offense the same as for first degree murder in other situations subject to Federal jurisdiction.

Section 310 adds a new section 1118 to title 18 to provide that a person serving a life sentence in a Federal prison who murders another person will be punished by death or by life imprisonment without the possibility of parole.

Section 311 amends the Federal kidnaping statute, 18 U.S.C. 1201, to provide for the imposition of the death penalty, under the sentencing procedures of chapter 228, if death results from the kidnapping.

Section 312 provides for the death penalty under 18 U.S.C. 1203 (enacted in 1984) if death occurs in the course of a hostage-taking abroad of an American national such as occurred in the recent incident involving the cruise ship Achille Lauro.

Section 313 applies the new sentencing provisions to section 1716, dealing with the mailing of injurious articles where death results. This merely effectuates the presently unenforceable death penalty provision for this section.

Section 314 of the bill would for the first time provide for the death penalty for an attempt to kill the President if the attempt results in bodily injury to the President. The procedures of the new chapter 228 would be applicable to such an offense.

Sections 315 and 316 provide for the death penalty under two related offenses enacted in 1984 proscribing murders for hire and killings in aid of racketeering activity (18 U.S.C. 1952A and 1952B).

Section 317 applies the new sentencing provisions of chapter 228 to violations of 18 U.S.C. 1992 involving the wrecking of trains where death results. This effectuates the presently unenforceable death penalty provision for this offense.

Section 318 restricts the application of the death penalty in cases of bank robbery and incidental crimes in violation of section 2113 of title 18 to cases where death results, and provides for life imprisonment as an alternative penalty in such cases.

Section 319 amends 18 U.S.C. 2331(a)(1), a provision enacted as part of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (P.L. 99-399, August 27, 1986), to provide for the death penalty in cases of first degree murder of a United States national while such national is outside the United States.

Section 320 provides for the death penalty for a person who causes the death of another while engaged in a continuing criminal enterprise offense under 21 U.S.C. 848. This in essence carries forward the death penalty provision twice passed by the House of Representatives in H.R. 5484 near the end of the 99th Congress.

Section 321 applies the procedures of chapter 228 to aircraft piracy where death results from the commission or attempted commission of the offense by repealing the capital punishment procedures in the Federal Aviation Act of 1958 (49 U.S.C. 1473(c)) while retaining the death penalty for air piracy where death results.

Section 322 provides that the capital punishment procedures of the new chapter 228 shall not apply to prosecutions under the Uniform Code of Military Justice inasmuch as the military code has its own set of death penalty procedures and provisions.

TRIBUTE TO COMMITTEEPERSONS

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 21, 1987

Mr. KANJORSKI. Mr. Speaker, as 1987, the year in which we celebrate the bicentennial of the signing of the Constitution of the United States of America, draws to a close, I believe that we should recognize some of the important men and women who take their own time to keep alive the crucial principles embodied in our Constitution. I am referring to the local committeepersons throughout this great Nation.

Committeemen and committeewomen do the grassroots work critical in the election of individuals to represent our people at all levels of government. In our system of representational democracy in which we the people choose how we will be governed and who will represent us, the work of a committeeperson is one of the highest expressions of civic virtue.

Regardless of what political party these great Americans are associated with, all of us in this country owe a debt of gratitude to the individuals who play an active part in our electoral process. All too often the important contributions of committeemen and committeewomen are forgotten by the general public. Nevertheless, it is important to recognize that these people are the oil that keeps the wheels of democracy turning.

Mr. Speaker, as we enter the third century in the life of the U.S. Constitution, I want to take this opportunity to publicly recognize and thank some of the committeemen and committeewomen, Democrats and Republicans alike, from my congressional district in northeastern Pennsylvania.

CARBON COUNTY

Leonard Alabovitz, R. Mickey Angst, Alfred Baldwin, Michael F. Batovsky, Kay Becker, Lee G. Becker, Dianne Beers, Frederick Beers, Shirley A. Bevans, Wilford N. Bevans, Roberta L. Brewster, Robert J. Bulishak, Ann J. Clements, Doris Coniglio, Lois Ann Corby, Lois J. Coury, Edith A. DeLong, James P. Demetrovic, Robert F. Dunn, Kathryn M. Engle, Norman A. Engle, Jr., Jessica A. Fahey, John J. Fahey, John L. Faust, Nina Fogle, Patrick E. Gallagher, Carol H. Gelgot, Betty J. Gerhard, Thomas C. Gerhard.

Karen M. Getter, Harry Gillespie, Helen Gimbor, Stephen Goidick, Lawrence R. Graff, Joan Heintzelman, Hazel I. Highland, Michael Hoherchak, Elmer E. Hoppes, Irene M. Hoppes, Joseph J. Hornick, Sr., Dolores Huszar, Andrew Hydro, Mary Alice Jacobs, Alex Kaslik, Willard E. Kemmerer, John Kleintop, Eleanora E. Klotz, Richard Knepper, Sherrilee Krieger, Mildred H. Krill, Jean Kunkle, James Lapos, Judith Lapos, Rosebud Leppler, John G. Lopata, Fred Majernik, Irene Makowiec, John McCammon, Barbara McCluskey, Cleatus M. McCluskey.

Mary M. Metrick, John Mihalochick, Judy F. Moon, Gary L. Moser, Kent R. Moyer, Paula Ann Moyer, Lorraine Muniz, E. Renee Nanovic, Thomas S. Nanovic, Joseph Nicholas, Kermit Nonnemacher, Betty Nothstein, Robert C. Nothstein, Deborah K. O'Brien, William N. O'Brien, Samuel L. O'Donnell, Thomas V. Ouly, Dorothy Pachorkowsky, Joseph Pachorkowsky, Joseph Pavlis, George T. Pilecki, Nancy J. Pilecki, David W. Pollock, Dorothy E. Pollock, Stephen J. Poshefko, Mary Ann Potestio, Robert J. Potestio, Irene Pribila, Nancy L. Ramaly.

Linda D. Rex, George J. Sabol, Patricia A. Sabol, Jeanne Samok, Joseph Sando, Charlaine Schneeberger, Barbara A. Scott, Anna Jean Searfoss, Grant M. Searfoss, John J. Searfoss, Arnold Selert, Margaret E. Shinsec, George Sholly, Doris Smida, Bernice Snyder, John Soltis, Bartley Springer, Joseph Staivecki, Terry C. Stein, Paul W. Steinmetz, Leroy F. Strohl, Rosemary Strohl, Anthony Wask, John W. Waugh, Charles E. Wehr, Donnlynne Wehr, Charles Weidman, Milo J. Whiteman, Anne B. Wilk, Howard W. Witham, Olive D. Witham.

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Edward Reichwein, Raymond Reilley, Roy Beishline, Raymond Eveland, Albert Rodock, Arnold Stackhouse, Jacob Sult, Albert Hunsinger, Gele Derr, Max Starr, John Dancho, David Miller, Terry Rider, Lerald Schell, Dana Creasy, Donald Watts, Albert Whitenight, William Hazlewood, Dale Moore, James Puderbaugh, Bert