

PANAMA CANAL ACT OF 1979

[Public Law 96–70, approved Sept. 27, 1979]

[As Amended Through P.L. 117–286, Enacted December 27, 2022]

【Currency: This publication is a compilation of the text of Public Law 96-70. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To provide for the operation and maintenance of the Panama Canal under the Panama Canal Treaty of 1977, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the “Panama Canal Act of 1979”.

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STATEMENT OF PURPOSE

SEC. 2. [22 U.S.C. 3601] It is the purpose of this Act to provide legislation necessary or desirable for the implementation of the Panama Canal Treaty of 1977 between the United States of America and the Republic of Panama and of the related agreements accompanying that Treaty.

DEFINITIONS

SEC. 3. [22 U.S.C. 3602] (a) For purposes of this Act—

(1) references to the Panama Canal Treaty of 1977 refer to the Panama Canal Treaty between the United States of America and the Republic of Panama, signed September 7, 1977; and

(2) references to the Panama Canal Treaty of 1977 and related agreements refer to the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977; and the Agreement Between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979.

(b) Subject to the provisions of subsection (c) of this section, for purposes of applying laws of the United States and regulations issued pursuant to such laws with respect to transactions, occurrences, or status on or after October 1, 1979—

(1) “Canal Zone” shall be deemed to refer to 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;

(2) “Canal Zone waters” and “waters of the Canal Zone” shall be deemed to refer to “Panama Canal waters” and “waters of the Panama Canal”, respectively;

(3) “Government of the Canal Zone” or “Canal Zone Government” shall be deemed to refer to the United States of America;

(4) “Governor of the Canal Zone” or “Governor”, wherever the reference is to the Governor of the Canal Zone, shall be deemed to refer to the Panama Canal Commission; and

(5) “Panama Canal Company” or “Company”, wherever the reference is to the Panama Canal Company, shall be deemed to refer to the Panama Canal Commission.

(c) Any reference set forth in subsection (b) of this section shall apply except as otherwise provided in this Act or unless (1) such reference is inconsistent with the provisions of this Act, (2) in the context in which a term is used such reference is clearly not intended, or (3) a term refers to a time before October 1, 1979.

(d) For purposes of this Act:

(1) The term “Canal Transfer Date” means December 31, 1999, such date being the date specified in the Panama Canal Treaty of 1977 for the transfer of the Panama Canal from the United States of America to the Republic of Panama.

(2) The term “Panama Canal Authority” means the entity created by the Republic of Panama to succeed the Panama Canal Commission as of the Canal Transfer Date.

TITLE I—ADMINISTRATION AND REGULATIONS

CHAPTER 1—PANAMA CANAL COMMISSION

ESTABLISHMENT, PURPOSES, OFFICES, AND RESIDENCE OF COMMISSION

SEC. 1101. [22 U.S.C. 3611] (a) For the purposes of managing, operating, and maintaining the Panama Canal and its complementary works, installations and equipment, and of conducting operations incident thereto, in accordance with the Panama Canal Treaty of 1977 and related agreements, the Panama Canal Commission (hereinafter in this Act referred to as the “Commission”) is established as a wholly owned government corporation (as that term is used in chapter 91 of title 31, United States Code) within the executive branch of the Government of the United States. The authority of the President with respect to the Commission shall be exercised through the Secretary of Defense.

(b) The principal office of the Commission shall be located in the Republic of Panama in one of the areas made available for use of the United States under the Panama Canal Treaty of 1977 and related agreements, but the Commission may establish branch offices in such other places as it considers necessary or appropriate for the conduct of its business. Within the meaning of the laws of the United States relating to venue in civil actions, the Commission is an inhabitant and resident of the District of Columbia and the eastern judicial district of Louisiana.

SUPERVISORY BOARD

SEC. 1102. [22 U.S.C. 3612] (a) The Commission shall be supervised by a Board composed of nine members, one of whom shall be an officer of the Department of Defense. The officer of the Department of Defense who shall serve on the Board shall be designated by the Secretary of Defense and may continue to serve on the Board only while continuing to serve as an officer of the Department of Defense. Not less than five members of the Board shall be nationals of the United States and the remaining members of the Board shall be nationals of the Republic of Panama. Three members of the Board who are nationals of the United States shall hold no other office in, and shall not be employed by, the Government of the United States, and shall be chosen for the independent perspective they can bring to the Commission’s affairs. Members of the Board who are nationals of the United States shall cast their votes as directed by the the officer of the Department of Defense designated by the Secretary of Defense to be a member of the Board.

(b) The President shall appoint the members of the Board. The members of the Board who are United States nationals shall be appointed by and with the advice and consent of the Senate. Each member of the Board shall hold office at the pleasure of the Presi-

dent and, before assuming the duties of such office, shall take an oath to discharge faithfully the duties of his office. Members of the Board shall serve without compensation but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in accordance with section 1107 of this Act, except that, in addition to such travel or transportation expenses, members of the Board who hold no other office with either the Government of the United States or the Republic of Panama for which they receive pay are authorized to be compensated at the daily equivalent of the annual rate of basic pay in effect for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which they are traveling to or from or attending meetings of the Board as provided in subsection (c) of this section or, as authorized by the Chairman of the Board, while on official Panama Canal Commission business.

(c) The Board shall hold meetings as provided in regulations adopted by the Commission and approved by the Secretary of Defense. A quorum for the transaction of business shall consist of a majority of the Board members of which a majority of those present are nationals of the United States. The Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, may act by proxy for any other member of the Board if that other member authorizes the proxy in writing and signs the proxy. The proxy may be counted to establish a quorum and may be used by the Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, to cast the vote of the absent Board member and to act for that member with all the powers that member would possess if present.

GENERAL POWERS OF COMMISSION

SEC. 1102a. [22 U.S.C. 3612a] (a) The Commission may adopt, alter, and use a corporate seal, which shall be judicially noticed.

(b) The Commission may by action of the Board of Directors adopt, amend, and repeal bylaws governing the conduct of its general business and the performance of the powers and duties granted to or imposed upon it by law.

(c) The Commission may sue and be sued in its corporate name, except that—

(1) the amenability of the Commission to suit is limited by Article VIII of the Panama Canal Treaty of 1977, section 1401 of this Act, and otherwise by law;

(2) an attachment, garnishment, or similar process may not be issued against salaries or other moneys owed by the Commission to its employees except as provided by section 5520a of title 5, United States Code, and sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, 662), or as otherwise specifically authorized by the laws of the United States; and

(3) the Commission is exempt from the payment of interest on claims and judgments.

(d) The Commission may enter into contracts, leases, agreements, or other transactions.

(e) The Commission—

(1) may determine the character of, and necessity for, its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid; and

(2) may incur, allow, and pay its obligations and expenditures, subject to pertinent provisions of law generally applicable to Government corporations.

(f) The Commission shall have the priority of the Government of the United States in the payment of debts out of bankrupt estates.

(g)(1) The Commission may appoint any United States citizen to have the general powers of a notary public to perform, on behalf of Commission employees and their dependents outside the United States, any notarial act that a notary public is required or authorized to perform within the United States. Unless an earlier expiration is provided by the terms of the appointment, any such appointment shall expire three months after the Canal Transfer Date.

(2) Every notarial act performed by a person acting as a notary under paragraph (1) shall be as valid, and of like force and effect within the United States, as if executed by or before a duly authorized and competent notary public in the United States.

(3) The signature of any person acting as a notary under paragraph (1), when it appears with the title of that person's office, is prima facie evidence that the signature is genuine, that the person holds the designated title, and that the person is authorized to perform a notarial act.

(h) The authority of the Commission under this section and section 1102b is subject to the Panama Canal Treaty of 1977 and related agreements, and to chapter 91 of title 31, United States Code.

SPECIFIC POWERS OF COMMISSION

SEC. 1102b. [22 U.S.C. 3612b] (a) The Commission may manage, operate, and maintain the Panama Canal.

(b) The Commission may construct or acquire, establish, maintain, and operate such activities, facilities, and appurtenances as necessary and appropriate for the accomplishment of the purposes of this Act, including the following:

(1) Docks, wharves, piers, and other shoreline facilities.

(2) Shops and yards.

(3) Marine railways, salvage and towing facilities, fuel-handling facilities, and motor transportation facilities.

(4) Power systems, water systems, and a telephone system.

(5) Construction facilities.

(6) Living quarters and other buildings.

(7) Warehouses, storehouses, a printing plant, and manufacturing, processing, or service facilities in connection therewith.

(8) Recreational facilities.

(c) The Commission may use the United States mails in the same manner and under the same conditions as the executive departments of the Federal Government.

(d) The Commission may take such actions as are necessary or appropriate to carry out the powers specifically conferred upon it.

(e) The Commission may conduct and promote commercial activities related to the management, operation, or maintenance of the Panama Canal. Any such commercial activity shall be carried out consistent with the Panama Canal Treaty of 1977 and related agreements.

(f)(1) The Commission may seek and accept donations of funds, property, and services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out its promotional activities.

(2) The Commission shall establish written guidelines setting forth the criteria to be used in determining whether the acceptance of funds, property, or services authorized by paragraph (1) would reflect unfavorably upon the ability of the Commission (or any employee of the Commission) to carry out its responsibilities or official duties in a fair and objective manner or would compromise the integrity or the appearance of the integrity of its programs or of any official in those programs.

ADMINISTRATOR

SEC. 1103. [22 U.S.C. 3613] (a) There shall be an Administrator of the Commission who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office at the pleasure of the President.

(b) The Administrator shall be paid compensation in an amount, established by the Board, not to exceed level III of the Executive Schedule.

(c) The Congress consents, for purposes of the 8th clause of article I, section 9 of the Constitution of the United States, to the acceptance by the individual serving as Administrator of the Commission of appointment by the Republic of Panama to the position of Administrator of the Panama Canal Authority. Such consent is effective only if that individual, while serving in both such positions, serves as Administrator of the Panama Canal Authority without compensation, except for payments by the Republic of Panama of travel and entertainment expenses, including per diem payments.

(d) If before the Canal Transfer Date the Republic of Panama appoints as the Administrator of the Panama Canal Authority the individual serving as the Administrator of the Commission and if that individual accepts the appointment—

(1) during any period during which that individual serves as both Administrator of the Commission and the Administrator of the Panama Canal Authority—

(A) the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.), shall not apply to that individual with respect to service as the Administrator of the Panama Canal Authority;

(B) that individual, with respect to participation in any particular matter as the Administrator of the Panama Canal Commission, is not subject to section 208(a) of title 18, United States Code, insofar as that section would otherwise apply to that matter only because the matter will

have a direct and predictable effect on the financial interest of the Panama Canal Authority;

(C) that individual is not subject to sections 203 and 205 of title 18, United States Code, with respect to official acts performed as an agent or attorney for or otherwise representing the Panama Canal Authority; and

(D) that individual is not subject to sections 13143(a) and 13144(a)(4) of title 5, United States Code, with respect to compensation received for, and service in, the position of Administrator of the Panama Canal Authority; and

(2) effective upon termination of the individual's appointment as Administrator of the Panama Canal Commission at noon on the Canal Transfer Date, that individual is not subject to section 207 of title 18, United States Code, with respect to acts done in carrying out official duties as Administrator of the Panama Canal Authority.

DEPUTY ADMINISTRATOR

SEC. 1104. [22 U.S.C. 3614] (a) There shall be a Deputy Administrator of the Commission who shall be appointed by the President. The Deputy Administrator shall perform such duties as may be prescribed by the Board.

(b) The Deputy Administrator shall be paid compensation at a rate of pay, established by the Board, which does not exceed the rate of basic pay in effect for level IV of the Executive Schedule, and, if eligible, shall be paid the overseas recruitment and retention differential provided for in section 1217 of this Act.

CONSULTATIVE COMMITTEE

SEC. 1105. [22 U.S.C. 3615] (a) The President shall designate, and the Secretary of State shall coordinate the participation of, representatives of the United States to the Consultative Committee to be established under paragraph 7 of Article III of the Panama Canal Treaty of 1977.

(b) The Consultative Committee shall function as a diplomatic forum for the exchange of views between the United States and the Republic of Panama. The Committee shall advise the United States Government and the Government of the Republic of Panama on matters of policy affecting the operation of the Panama Canal. The Committee shall have no authority to direct the Commission or any other department or agency of the United States to initiate or withhold action.

JOINT COMMISSION ON THE ENVIRONMENT

SEC. 1106. [22 U.S.C. 3616] (a) The United States and the Republic of Panama, in accordance with the Panama Canal Treaty of 1977, shall establish a Joint Commission on the Environment (hereinafter in this section referred to as the "Joint Commission") to be composed of not more than three representatives of the United States and three representatives of the Republic of Panama, or such other equivalent numbers of representatives as may be agreed upon by the Governments of the two countries. The United States members of the Joint Commission shall periodically review

the implementation of the Panama Canal Treaty of 1977 with respect to its impact on the environment and shall, jointly with the representatives of the Government of Panama, make recommendations to the United States Government and the Government of the Republic of Panama with respect to ways to avoid or mitigate adverse environmental impacts resulting from actions taken pursuant to such Treaty.

(b) Representatives of the United States on the Joint Commission shall be appointed by the President and shall serve at the pleasure of the President. Such representatives shall serve without compensation but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in accordance with section 1107 of this Act.

(c) Any Federal employee subject to the civil service laws and regulations who is detailed to serve with, or appointed by, the United States representatives on the Joint Commission shall not lose any pay, seniority, or other rights or benefits by reason of such detail or appointment.

(d) The United States representatives on the Joint Commission may, to such extent or in such amounts as are provided in advance in appropriation Acts, appoint and fix the compensation of such personnel as the representatives of the United States on the Joint Commission may consider necessary for the participation of the United States on the Joint Commission.

(e) The United States representatives on the Joint Commission may, in cooperation with the representatives of the Republic of Panama on the Joint Commission in conducting its affairs, subject to the approval of such rules by the Governments of the United States and the Republic of Panama.

TRAVEL EXPENSES

SEC. 1107. [22 U.S.C. 3617] While away from their homes, regular places of business, or official stations in performance of services under this chapter, members of the Board of the Commission and the representatives of the United States on the Consultative Committee referred to in section 1105 of this Act and on the Joint Commission on the Environment referred to in section 1106 of this Act shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

DEFENSE OF THE PANAMA CANAL

SEC. 1108. [22 U.S.C. 3618] In the event of an armed attack against the Panama Canal, or when, in the opinion of the President, conditions exist which threaten the security of the Canal, the Administrator of the Commission shall, upon the order of the President, comply with such directives as the United States military officer charged with the protection and defense of the Panama Canal may consider necessary in the exercise of his duties.

JOINT SEA LEVEL CANAL STUDY COMMITTEE

SEC. 1109. [22 U.S.C. 3619] (a) The President shall appoint the representatives of the United States to any joint committee or body with the Republic of Panama (to study the possibility of a sea level canal in the Republic of Panama) pursuant to Article XII of the Panama Canal Treaty of 1977.

(b) Upon the completion of any joint study between the United States and the Republic of Panama concerning the feasibility of a sea level canal in the Republic of Panama pursuant to paragraph 1 of Article XII of the Panama Canal Treaty of 1977, the test of the study shall be transmitted by the President of the Senate and to the Speaker of the House of Representatives.

(c) No construction of a sea level canal by the United States in the Republic of Panama shall be undertaken except with express congressional authorization after submission of the study by the President as provided in subsection (b) of this section.

AUTHORITY OF THE AMBASSADOR

SEC. 1110. [22 U.S.C. 3620] (a) The United States Ambassador to the Republic of Panama shall have full responsibility for the coordination of the transfer to the Republic of Panama of those functions that are to be assumed by the Republic of Panama pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b)(1) The Commission shall not be subject to the direction or supervision of the United States Chief of Mission in the Republic of Panama with respect to the responsibilities of the Commission for the operation, management, or maintenance of the Panama Canal, as established in this or any other Act or in the Panama Canal Treaty of 1977 and related agreements, except that the Commission shall keep the Ambassador fully and currently informed with respect to all activities and operations of the Commission.

(2) Except as provided in paragraph (1) of this subsection, section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) shall apply with respect to the activities of the Commission.

(c)(1) The Secretary of State may enter into one or more agreements to provide for the United States to furnish administrative services relating to the benefits described in paragraph (2) after December 31, 1999, and to establish appropriate procedures for providing advance funding for the services.

(2) The benefits referred to in paragraph (1) are the following:

(A) Pension, disability, and medical benefits provided by the Panama Canal Commission pursuant to section 1245.

(B) Compensation for work injuries covered by chapter 81 of title 5, United States Code.

SECURITY LEGISLATION

SEC. 1111. [22 U.S.C. 3621] It is the sense of the Congress that the best interests of the United States require that the President enter into negotiations with the Republic of Panama for the purpose of arranging for the stationing of United States military forces, after the termination of the Panama Canal Treaty of 1977, in the area comprising the Canal Zone before the effective date of

this Act, and for the maintenance of installations and facilities, after the termination of such Treaty, for the use of United States military forces stationed in such area. The President shall report to the Congress in a timely manner the status of negotiations conducted pursuant to this section.

CODE OF CONDUCT FOR COMMISSION PERSONNEL

SEC. 1112. [22 U.S.C. 3622] (a) Before assuming the duties of his office or employment, each member of the Board of the Commission and each officer and employee of the Commission shall take an oath to discharge faithfully the duties of his office or employment. All employees of the Commission shall be subject to the laws of the United States regarding duties and responsibilities of Federal employees.

(b) Not later than 60 days after all the members of the Board of the Commission have been appointed, the Board shall adopt a code of conduct applicable to the persons referred to in subsection (a) of this section. The code of conduct shall contain provisions substantially equivalent to those contained in part 735 of title 5 of the Code of Federal Regulations on October 1, 1979. The code of conduct shall, at a minimum, contain provisions substantially equivalent to the following provisions of law:

(1) the provisions of chapter 11 of title 18, United States Code, as amended, relating to bribery, graft, or conflicts of interest, as appropriate to the employees concerned;

(2) section 7352 of title 5, United States Code, as amended;

(3) sections 207, 208, 285, 508, 641, 645, 1001, 1917, and 2071 of title 18, United States Code, as amended;

(4) section 5 of the Act of July 16, 1914 (31 U.S.C. 638a), as amended;

(5) chapter 131 of title 5, United States Code; and

(6) those provisions of the laws and regulations of the Republic of Panama which are substantially equivalent to those of the United States set forth in this subsection.

(c) The Commission shall investigate any allegations regarding the violation of the code of conduct adopted pursuant to subsection (b) of this section. The Commission may recommend that the President suspend from the performance of his duties any member of the Board of the Commission or any officer or employee of the Commission, pending judicial proceedings by appropriate authorities concerning such allegations.

(d) The President shall negotiate suitable arrangements with the Republic of Panama whereby each nation shall agree to take all measures within its legal authority to assure that members of the Board of the Commission comply with the code of conduct established pursuant to subsection (b) of this section. Without prejudice to such jurisdiction as the United States may have with respect to members of the Board, the provisions of law enumerated in subsection (b) of this section shall be enforced with respect to members of the Board only in accordance with such arrangements.

(e)(1) Section 207 of title 18, United States Code, does not apply to a covered individual with respect to acts done in carrying

out official duties as an officer or employee of the Panama Canal Authority.

(2) For purposes of paragraph (1), a covered individual is an officer or employee of the Panama Canal Authority who was an officer or employee of the Commission (other than the Administrator) and whose employment with the Commission terminated at noon on the Canal Transfer Date.

(3) This subsection is effective as of the Canal Transfer Date.

(f)(1) The Congress consents to the following persons accepting civil employment (and compensation for that employment) with the Panama Canal Authority for which the consent of the Congress is required by the last paragraph of section 9 of article I of the Constitution of the United States, relating to acceptance of emoluments, offices, or titles from a foreign government:

(A) Retired members of the uniformed services.

(B) Members of a reserve component of the armed forces.

(C) Members of the Commissioned Reserve Corps of the Public Health Service.

(2) The consent of the Congress under paragraph (1) is effective without regard to subsection (b) of section 908 of title 37, United States Code (relating to approval required for employment of Reserve and retired members by foreign governments).

OFFICE OF OMBUDSMAN

SEC. 1113. [22 U.S.C. 3623] (a) There established within the Commission an Office of Ombudsman, to be directed by an Ombudsman, who shall be appointed by the Commission. It shall be the function of the Office of Ombudsman to receive individual complaints, grievances, requests, and suggestions of employees (and their dependents), of the Commission and other departments and agencies of the United States, including the Smithsonian Institution, conducting operations before the effective date of this Act in the area then comprising the Canal Zone concerning administrative problems, inefficiencies, and conflicts caused within departments and agencies of the United States, including the Smithsonian Institution, as a result of the implementation of the Panama Canal Treaty of 1977 and related agreements.

(b) The Ombudsman shall make findings and render assistance with respect to the complaints, grievances, requests, and suggestions submitted to the Office of Ombudsman, and shall make appropriate recommendations to the Commission or any other department or agency of the United States, including the Smithsonian Institution.

(c) The establishment of the Office of Ombudsman shall not affect any procedures for grievances, appeals, or administrative matters in any other provision of this Act, any other provision of law, or any Federal regulation.

(d) The Office of Ombudsman shall terminate upon the termination of the Panama Canal Treaty of 1977.

CHAPTER 2—EMPLOYEES

Subchapter I—Panama Canal Commission Personnel

DEFINITIONS

SEC. 1201. [22 U.S.C. 3641] As used in this chapter—

(1) “Executive agency” has the meaning given that term in section 105 of title 5, United States Code;

(2) “uniformed services” has the meaning given the term in section 2101(3) of title 5, United States Code;

(3) “competitive service” has the meaning given that term in section 2102 of title 5, United States Code; and

(4) “United States” when used in a geographic sense, means each of the several States and the District of Columbia.

APPOINTMENT AND COMPENSATION; DUTIES

SEC. 1202. [22 U.S.C. 3642] (a) In accordance with this chapter, the Commission may appoint, fix the compensation of, and define the authority and duties of officers and employees (other than the Administrator and Deputy Administrator) necessary for the management, operation, and maintenance of the Panama Canal and its complementary works, installations, and equipment.

(b) Individuals serving in any Executive agency (other than the Commission) or the Smithsonian Institution, including individuals in the uniformed services, may, if appointed under this section or section 1104 of this Act, serve as officers or employees of the Commission.

(c) In the case of an individual who is an officer or employee of the Commission on November 17, 1997, and who has not had a break in service with the Commission since that date, the rate of basic pay for that officer or employee may not be less than the rate in effect for that officer or employee on that date except—

- (1) as provided in a collective bargaining agreement;
- (2) as a result of an adverse action against the officer or employee; or
- (3) pursuant to a voluntary demotion.

TRANSFER OF FEDERAL EMPLOYEES

SEC. 1203. [22 U.S.C. 3643] (a) The head of any agency may enter into agreements for the transfer or detail to the Commission of any employee of that agency serving under a permanent appointment. Any employee who so transfers or is so detailed shall, upon completion of the employee’s tour of duty with the Commission, be entitled to reemployment with the agency from which the employee was transferred or detailed without loss of pay, seniority, or other rights or benefits to which the employee would have been entitled had the employee not been so transferred or been so detailed.

(b) For purposes of this section, the term “agency” means an Executive agency, the United States Postal Service, and the Smithsonian Institution.

(c) The Office of Personnel Management shall prescribe regulations to carry out the purposes of this section.

COMPENSATION OF INDIVIDUALS IN THE UNIFORMED SERVICES

SEC. 1204. [22 U.S.C. 3644] (a) Except as provided in subsection (b) of this section, any individual who is serving in a position in the Commission and who is a member of a uniformed service shall continue to be paid basic pay by such uniformed service and shall not be paid by the Commission for the period of the service in the uniformed service involved.

(b) If the individual appointed as Administrator, Deputy Administrator, or Chief Engineer of the Commission is a member of a uniformed service, the amount of basic pay otherwise payable to the individual for service in that position shall be reduced, up to the amount of that basic pay, by the amount of the basic pay payable to the individual as a member of a uniformed service.

(c) The Commission shall annually pay to each uniformed service amounts sufficient to reimburse that uniformed service for any basic pay paid by that uniformed service to any member of that service during any period of service in the Commission by the member.

DEDUCTION FROM BASIC PAY OF AMOUNTS DUE FOR SUPPLIES OR SERVICES

SEC. 1205. [22 U.S.C. 3645] The Commission may deduct from the basic pay otherwise payable by the Commission to any officer or employee of the Commission any amount due from the officer or employee to the Commission or to any contractor of the Commission for transportation, board, supplies, or any other service. Any amount so deducted may be paid by the Commission to any contractor to whom it is due or may be credited by the Commission to any fund from which the Commission has expended such amount.

[Sections 1206 and 1207 were repealed by section 3507(a) of Public Law 105–261 (112 Stat. 2269)]

PRIVILEGES AND IMMUNITIES OF CERTAIN EMPLOYEES

SEC. 1208. [22 U.S.C. 3648] The Secretary of Defense shall designate those officers and employees of the Commission and other individuals entitled to the privileges and immunities accorded under paragraph 3 or Article VIII of the Panama Canal Treaty of 1977. The Department of State shall furnish to the Republic of Panama a list of the names of such officers, employees, and other individuals and shall notify the Republic of Panama of any subsequent additions to or deletions from the list.

APPLICABILITY OF CERTAIN BENEFITS

SEC. 1209. [22 U.S.C. 3649] Chapter 81 of title 5, United States Code, relating to compensation for work injuries, chapters 83 and 84 of such title 5, relating to retirement, chapter 87 of such title 5, relating to life insurance, and chapter 89 of such title 5, relating to health insurance, are applicable to Commission employees, except any individual—

(1) who is not a citizen of the United States;

(2) whose initial appointment by the Commission occurs after October 1, 1979; and

(3) who is covered by the Social Security System of the Republic of Panama pursuant to any provision of the Panama Canal Treaty of 1977 and related agreements.

AIR TRANSPORTATION

SEC. 1210. [22 U.S.C. 3650]

(a) Notwithstanding any other provision of law (except subsection (b)), the Commission may contract with Panamanian carriers registered under the laws of the Republic of Panama to provide air transportation to officials and employees of the Commission who are citizens of the Republic of Panama.

(b) An official or employee of the Commission who is a citizen of the Republic of Panama may elect, for security or other reasons, to travel by an air carrier holding a certificate under section 41102 of title 49, United States Code.

Subchapter II—Wage and Employment Practices

DEFINITIONS

SEC. 1211. [22 U.S.C. 3651] As used in this subchapter—

- (1) “agency” means—
 - (A) the Commission, and
 - (B) any other Executive agency or the Smithsonian Institution, to the extent of any election in effect under section 1212(b) of this Act;
- (2) “position” means a civilian position in the Commission, or in any other agency if a substantial portion of the duties and responsibilities are performed in the Republic of Panama; and
- (3) “employee” means an individual serving in a position.

PANAMA CANAL EMPLOYMENT SYSTEM; MERIT AND OTHER EMPLOYMENT REQUIREMENTS

SEC. 1212. [22 U.S.C. 3652] (a) The Commission shall establish a Panama Canal Employment System and prescribe the regulations necessary for its administration. The Panama Canal Employment System shall—

- (1) be established in accordance with and be subject to the provisions of the Panama Canal Treaty of 1977 and related agreements, the provisions of this chapter, and any other applicable provision of law;
- (2) be based on the consideration of the merit of each employee or candidate for employment and the qualifications and fitness of the employee to hold the position concerned;
- (3) conform, to the extent practicable and consistent with the provisions of this Act, to the policies, principles, and standards applicable to the competitive service;
- (4) in the case of employees who are citizens of the United States, provide for the appropriate interchange of those employees between positions under the Panama Canal Employment System and positions in the competitive service; and

(5) not be subject to the provisions of title 5, United States Code, unless specifically made applicable by this Act.

(b)(1) The head of any Executive agency (other than the Commission) and the Smithsonian Institution may elect to have the Panama Canal Employment System made applicable in whole or in part to personnel of that agency in the Republic of Panama.

(2) Any Executive agency (other than the Commission) and the Smithsonian Institution, to the extent of any election under paragraph (1), shall conduct its employment and pay practices relating to employees in accordance with the Panama Canal Employment System.

(3) Notwithstanding any other provision of this Act, the Panama Canal Act Amendments of 1996 (subtitle B of title XXXV of Public Law 104–201; 110 Stat. 2860), or the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105–85; 110 Stat. 2062), or the Panama Canal Commission Authorization Act for Fiscal Year 1999, this subchapter, as in effect on September 22, 1996, shall continue to apply to an Executive agency or the Smithsonian Institution to the extent of an election under paragraph (1) by the head of the agency or the Institution, respectively.

(c) The Commission may exclude any employee or position from coverage under any provision of this subchapter, other than the interchange rights extended under subsection (a)(4).

EMPLOYMENT STANDARDS

SEC. 1213. [22 U.S.C. 3653] The Commission shall establish written standards for—

(1) determining the qualifications and fitness of employees and of candidates for employment in positions; and

(2) selecting individuals for appointment, promotion, or transfer to positions.

The standards shall conform to the provisions of this subchapter, and regulations prescribed thereunder, and the Panama Canal Employment System.

[Sec. 1214. Repealed by section 3532 of Public Law 104–201 (110 Stat. 2863)]

[Sec. 1215. Repealed by section 3523(a)(1) of Public Law 105–85 (111 Stat. 2064)]

UNIFORM APPLICATION OF STANDARDS AND RATES

SEC. 1216. [22 U.S.C. 3656] The standards established pursuant to section 1213 of this Act and the rates of basic pay established pursuant to section 1202 of the Act shall be applied without regard to whether the employee or individual concerned is a citizen of the United States or a citizen of the Republic of Panama.

RECRUITMENT AND RETENTION REMUNERATION

SEC. 1217. [22 U.S.C. 3657] [1217(a) was repealed by section 3507(a) of Public Law 105–261 (112 Stat. 2269)]

(b) Any employee described in more than one paragraph of subsection (a) of this section may qualify for a recruitment or retention differential under only one of those paragraphs.

(c)(1) The Commission may pay a recruitment bonus to an individual who is newly appointed to a position with the Commission, or a relocation bonus to an employee of the Commission who must relocate to accept a position, if the Commission determines that the Commission would be likely, in the absence of such a bonus, to have difficulty in filling the position.

(2) A recruitment or relocation bonus may be paid to an employee under this subsection only if the employee enters into an agreement with the Commission to complete a period of employment established in the agreement. If the employee voluntarily fails to complete such period of employment or is separated from service in such employment as a result of an adverse action before the completion of such period, the employee shall repay the entire amount of the bonus.

(3) A recruitment or relocation bonus under this subsection may be paid as a lump sum. A bonus under this subsection may not be considered to be part of the basic pay of an employee.

(d)(1) The Commission may pay a retention bonus to an employee of the Commission if the Commission determines that—

(A) the employee has unusually high or unique qualifications and those qualifications make it essential for the Commission to retain the employee for a period specified by the Commission ending not later than the Canal Transfer Date, or the Commission otherwise has a special need for the services of the employee making it essential for the Commission to retain the employee for a period specified by the Commission ending not later than the Canal Transfer Date; and

(B) the employee would be likely to leave employment with the Commission before the end of that period if the retention bonus is not paid.

(2) A retention bonus under this subsection—

(A) shall be in a fixed amount;

(B) shall be paid on a pro rata basis (over the period specified by the Commission as essential for the retention of the employee), with such payments to be made at the same time and in the same manner as basic pay; and

(C) may not be considered to be part of the basic pay of an employee.

(3) A decision by the Commission to exercise or to not exercise the authority to pay a bonus under this subsection shall not be subject to review under any statutory procedure or any agency or negotiated grievance procedure except under any of the laws referred to in section 2302(d) of title 5, United States Code.

(e) Additional compensation provided under this section may not exceed 25 percent of the rate of basic pay of the individual to whom the compensation is paid.

QUARTERS ALLOWANCE

SEC. 1217a. [22 U.S.C. 3657a] (a) Notwithstanding paragraphs (2) and (3) of section 1211 of this Act, as used in this section—

(1) “position” means a civilian position; and

(2) “employee” means an individual serving in a position in the Department of Defense whose permanent duty station is in the area which, before October 1, 1979, was known as the Canal Zone.

(b) Under regulations prescribed by or under authority of the President, the Department of Defense may grant a quarters allowance in the case of—

(1) any employee who is a citizen of the United States and who, before October 1, 1979, was employed by the Panama Canal Company, the Canal Zone Government, or any other agency, in the area then known as the Canal Zone; and

(2) any other employee who is a citizen of the United States and who (before, on, or after the effective date of this section) is or was recruited within the United States;

for whom adequate Government owned or leased quarters are not made available.

(c) The amount of any quarters allowance granted to an employee under this section shall be determined in accordance with the regulations prescribed under subsection (b) of this section, except that such allowance for any period may not exceed the amount, if any, by which—

(1) the lesser of—

(A) the actual expenses for rent and utilities incurred by the employee during such period while occupying quarters other than Government owned or leased quarters; or

(B) the maximum amount which would be authorized for such employee with respect to such period under the Department of State Standardized Regulations (Government Civilians, Foreign Areas) if such employee were covered by those regulations;

exceeds

(2) the estimated total cost of rent and utilities which the employee would have been charged if Government owned or leased quarters had been provided on a rental basis during such period.

(d) The provisions of this section shall apply without regard to whether any election by the Department of Defense under section 1212(b) of this Act is then in effect.

BENEFITS BASED ON BASIC PAY

SEC. 1218. [22 U.S.C. 3658] For the purposes of determining—

(1) amounts of compensation for disability or death under chapter 81 of title 5, United States Code, relating to compensation for work injuries;

(2) benefits under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, relating to retirement;

(3) amounts of insurance under chapter 87 of title 5, United States Code, relating to life insurance;

(4) amounts of overtime pay or other premium pay;
 (5) annual leave benefits; and
 (6) any other benefits related to basic pay;
 the basic pay of each employee shall include the rate of basic pay established for his position under section 1202 of this Act plus the amount of any additional compensation provided under section 1217(a) of this Act.

【Sec. 1219. Repealed by section 3523(a)(2) of Public Law 105–85 (111 Stat. 2064)】

REVIEW AND ADJUSTMENT OF CLASSIFICATIONS, GRADES, AND PAY LEVEL

SEC. 1220. 【22 U.S.C. 3660】 An employee may request at any time that the employee's agency—

- (1) review the classification of the employee's position or the grade or pay level for the employee's position, or both; and
- (2) revise or adjust that classification, grade or pay level, or both, as the case may be.

The request for review and revision or adjustment shall be submitted and adjudicated in accordance with the regularly established appeals procedures of the agency.

PANAMA CANAL BOARD OF APPEALS; DUTIES

SEC. 1221. 【22 U.S.C. 3661】 (a) Subject to the provisions of this chapter, the Commission shall prescribe regulations establishing a Panama Canal Board of Appeals. The regulations shall provide for the number of members of the Board and their appointment, compensation, and terms of office, the selection of a Chairman of the Board, the appointment and compensation of the Board's employees, and other appropriate matters relating to the Board.

(b) The Board shall review and determine the appeals of employees in accordance with section 1222 of this Act. The decisions of the Board shall conform to the provisions of this subchapter.

APPEALS TO BOARD; PROCEDURES; FINALITY OF DECISIONS

SEC. 1222. 【22 U.S.C. 3662】 (a) An employee may appeal to the Panama Canal Board of Appeals from an adverse determination made by an agency under section 1220 of this Act. The appeal shall be made in writing within a reasonable time (as specified in regulations prescribed by, or under the authority of, the Commission) after the date of the transmittal by the agency to the employee of written notice of the adverse determination.

(b) The Board may authorize, in connection with an appeal pursuant to subsection (a) of this section, a personal appearance before the Board by the employee, or by a representative of the employee designated for that purpose.

(c) After investigation and consideration of the evidence submitted, the Board shall—

- (1) prepare a written decision on the appeal;
- (2) transmit its decision to the agency concerned; and

(3) transmit copies of the decision to the employee concerned or to the designated representative.

(d) The decision of the Board on any question or other matter relating to an appeal is final and conclusive. The agency concerned shall take action in accordance with the decision of the Board.

【Section 1223 repealed by Pub. Law 105–261, § 3508, Oct. 16, 1998, 112 Stat. 2269】

APPLICABILITY OF TITLE 5, UNITED STATES CODE

SEC. 1224. 【22 U.S.C. 3664】 The following provisions of title 5, United States Code, apply to the Panama Canal Commission:

- (1) Part I of title 5 (relating to agencies generally).
- (2) Chapter 21 (relating to employee definitions).
- (3) Section 2302(b)(8) (relating to whistleblower protection) and all provisions of title 5 relating to the administration or enforcement or any other aspect thereof, as identified in regulations prescribed by the Commission in consultation with the Office of Personnel Management.
- (4) All provisions relating to preference eligibles.
- (5) Section 5514 (relating to offset from salary).
- (6) Section 5520a (relating to garnishments).
- (7) Sections 5531–5535 (relating to dual pay and employment).
- (8) Subchapter VI of chapter 55 (relating to accumulated and accrued leave).
- (9) Subchapter IX of chapter 55 (relating to severance and back pay).
- (10) Chapter 59 (relating to allowances).

【Paragraph (11) was repealed. Pub. L. 105–261, div. C, title XXXV, § 3507(a), Oct. 17, 1998, 112 Stat. 2269】

(12) Section 6323 (relating to military leave; Reserves and National Guardsmen).

(13) Chapter 71 (relating to labor relations).

(14) Subchapters II and III of chapter 73 (relating to employment limitations and political activities, respectively) and all provisions of title 5 relating to the administration or enforcement or any other aspect thereof, as identified in regulations prescribed by the Commission in consultation with the Office of Personnel Management.

(15) Chapter 81 (relating to compensation for work injuries).

(16) Chapters 83 and 84 (relating to retirement).

(17) Chapter 85 (relating to unemployment compensation).

(18) Chapter 87 (relating to life insurance).

(19) Chapter 89 (relating to health insurance).

【Sec. 1225. Repealed by section 3523(a)(3) of Public Law 105–85 (111 Stat. 2065)】

Subchapter III—Conditions of Employment and Placement

TRANSFERRED OR REEMPLOYED EMPLOYEES

SEC. 1231. [22 U.S.C. 3671] (a)(1) With respect to any individual employed in the Panama Canal Company or the Canal Zone Government—

- (A) who is transferred—
 - (i) to a position in the Commission; or
 - (ii) to a position in an Executive agency or in the Smithsonian Institution the permanent duty station of which is in the Republic of Panama (including the area known before October 1, 1979, as the Canal Zone); or
 - (B) who is separated by reason of a reduction in force on September 30, 1979, and is appointed to a position in the Commission before April 1, 1980;
- the terms and conditions of employment set forth in paragraph (2) of this subsection shall be generally no less favorable, on or after the date of the transfer referred to in subparagraph (A) of this paragraph or the date of the appointment referred to in subparagraph (B) of this paragraph as the case may be, than the terms and conditions of employment with the Panama Canal Company and Canal Zone Government on September 30, 1979, or, in the case of a transfer described in subparagraph (A)(ii) of this paragraph which takes place before that date, on the date of the transfer.
- (2) The terms and conditions of employment referred to in paragraph (1) of this subsection are the following: [(A), (B) Repealed. Pub. L. 105–261, div. C, title XXXV, § 3507(a), Oct. 17, 1998, 112 Stat. 2269]
- (C) premium pay and night differential;
 - (D) reinstatement and restoration rights;
 - (E) injury and death compensation benefits;
 - [(F) to (H) Repealed. Pub. L. 105–261, div. C, title XXXV, § 3507(a), Oct. 17, 1998, 112 Stat. 2269]
 - (I) reduction-in-force rights;
 - (J) an employee grievance system, and the right to appeal adverse and disciplinary actions and positions classification actions;
 - (K) veterans' preference eligibility;
 - (L) holidays;
 - (M) saved pay provisions; and
 - (N) severance pay benefits.

(b) Any individual described in subsection (a)(1)(B) of this section who would have met the service requirement for early retirement benefits under section 8336(i) or 8339(d)(2) of title 5, United States Code (as amended by sections 1241(a) and 1242 of this Act, respectively), but for a break in service of more than 3 days immediately after September 30, 1979, shall be considered to meet that requirement. Any break in service by any such individual for purposes of section 8332 of such title 5 during the period beginning September 30, 1979, and ending on the date of the appointment referred to in such subsection (a)(1)(B) shall be considered a period of creditable service under such section 8332 for such individual, except that such period shall not be taken into account for purposes

of determining average pay (as defined in section 8331(4) of such title 5) and no deduction, contribution, or deposit shall be required for that period under section 8334 of such title 5.

(c)(1) Section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(c)) shall not apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama, until the rates of basic compensation established under section 5(c) of such Act equal or exceed the rates of basic compensation then in effect for teachers who were so transferred.

(2) Section 6(a)(2) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 904(a)(2)) shall not apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama.

(3)(A) The head of a department or agency of the United States may grant a sabbatical to any teacher to whom paragraph (1) of this subsection applies for not to exceed 11 months in order to permit the teacher to engage in study or uncompensated work experience which is in the United States and which will contribute to the teacher's development and effectiveness. Basic compensation shall be paid to teachers on sabbatical under this section in the same manner and to the same extent as basic compensation would have been paid to teachers on sabbatical while employed in the Canal Zone Government school system on September 30, 1979. A sabbatical shall not result in a loss of, or reduction in, leave to which the teacher is otherwise entitled, credit for time or service, or performance or efficiency rating. The head of the department or agency may authorize in accordance with chapter 57 of title 5, United States Code, such travel expenses (including per diem allowance) as the head of the department or agency may determine to be essential for the study or experience.

(B) A sabbatical under this paragraph may not be granted to any teacher—

- (i) more than once in any 10-year period;
- (ii) unless the teacher has completed 7 years of service as a teacher; and
- (iii) if the teacher is eligible for voluntary retirement with a right to an immediate annuity.

(C)(i) Any teacher in a department or agency of the United States may be granted a sabbatical under this paragraph only if the teacher agrees, as a condition of accepting the sabbatical, to serve in the civil service upon the completion of the sabbatical for a period of two consecutive years.

(ii) Each agreement required under clause (i) of this subparagraph shall provide that in the event the teacher fails to carry out the agreement (except for good and sufficient reason as determined by the head of the department or agency that granted the sab-

batical), the teacher shall be liable to the United States for payment of all expenses (including salary) of the sabbatical. The amount shall be treated as a debt due the United States.

(d) **Amended sections 5595(a)(2)(iii), 5724a(a) (3) and (4), and 8102(b) of title 5, United States Code.**

PLACEMENT

SEC. 1232. **[22 U.S.C. 3672]** (a) Any citizen of the United States—

(1) who, on March 31, 1979, was an employee of the Panama Canal Company or the Canal Zone Government;

(2) who separates or is scheduled to separate on or after such date for any reason other than misconduct or delinquency; and

(3) who is not placed in another appropriate position in the Government of the United States in the Republic of Panama; shall, upon the employee's request, be accorded appropriate assistance for placement in vacant positions in the Government of the United States in the United States.

(b) Any citizen of the United States—

(1) who, on March 31, 1979, was employed in the Canal Zone as an employee of an Executive agency (other than the Panama Canal Company or the Canal Zone Government) or the Smithsonian Institution;

(2) whose position is eliminated as the result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; and

(3) who is not appointed to another appropriate position in the Government of the United States in the Republic of Panama;

shall, upon the employee's request, be accorded appropriate assistance for placement in vacant positions in the Government of the United States in the United States.

(c) The Office of Personnel Management shall establish and administer a Government-wide placement program for all eligible employees who request appointment to positions under this section.

(d) The provisions of this section shall take effect on the date of the enactment of this Act.

TRANSITION SEPARATION INCENTIVE PAYMENTS

SEC. 1233. **[22 U.S.C. 3673]** (a) In applying to the Commission and employees of the Commission the provisions of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (as contained in section 101(f) of division A of Public Law 104-208; 110 Stat. 3009-383), relating to voluntary separation incentives for employees of certain Federal agencies (in this section referred to as "section 663")—

(1) the term "employee" shall mean an employee of the Commission who has served in the Republic of Panama in a position with the Commission for a continuous period of at least three years immediately before the employee's separation under an appointment without time limitation and who is covered under the Civil Service Retirement System or the Federal

Employees' Retirement System under subchapter III of chapter 83 or chapter 84, respectively, of title 5, United States Code, other than—

(A) an employee described in any of subparagraphs (A) through (F) of subsection (a)(2) of section 663; or

(B) an employee of the Commission who, during the 24-month period preceding the date of separation, has received a recruitment or relocation bonus under section 1217(c) of this Act or who, within the 12-month period preceding the date of separation, received a retention bonus under section 1217(d) of this Act;

(2) the strategic plan under subsection (b) of section 663 shall include (in lieu of the matter specified in subsection (b)(2) of that section)—

(A) the positions to be affected, identified by occupational category and grade level;

(B) the number and amounts of separation incentive payments to be offered; and

(C) a description of how such incentive payments will facilitate the successful transfer of the Panama Canal to the Republic of Panama;

(3) a separation incentive payment under section 663 may be paid to a Commission employee only to the extent necessary to facilitate the successful transfer of the Panama Canal by the United States of America to the Republic of Panama as required by the Panama Canal Treaty of 1977;

(4) such a payment—

(A) may be in an amount determined by the Commission not to exceed \$25,000; and

(B) may be made (notwithstanding the limitation specified in subsection (c)(2)(D) of section 663) in the case of an eligible employee who voluntarily separates (whether by retirement or resignation) during the 90-day period beginning on the date of the enactment of this section or during the period beginning on October 1, 1998, and ending on December 31, 1998;

(5) in the case of not more than 15 employees who (as determined by the Commission) are unwilling to work for the Panama Canal Authority after the Canal Transfer Date and who occupy critical positions for which (as determined by the Commission) at least two years of experience is necessary to ensure that seasoned managers are in place on and after the Canal Transfer Date, such a payment (notwithstanding paragraph (4))—

(A) may be in an amount determined by the Commission not to exceed 50 percent of the basic pay of the employee; and

(B) may be made (notwithstanding the limitation specified in subsection (c)(2)(D) of section 663) in the case of such an employee who voluntarily separates (whether by retirement or resignation) during the 90-day period beginning on the date of the enactment of this section; and

(6) the provisions of subsection (f) of section 663 shall not apply.

(b) A decision by the Commission to exercise or to not exercise the authority to pay a transition separation incentive under this section shall not be subject to review under any statutory procedure or any agency or negotiated grievance procedure except under any of the laws referred to in section 2302(d) of title 5, United States Code.

Subchapter IV—Retirement

EARLY RETIREMENT ELIGIBILITY

SEC. 1241.¹

EARLY RETIREMENT COMPUTATION

SEC. 1242.²

RETIREMENT UNDER SPECIAL TREATY PROVISIONS

SEC. 1243. [22 U.S.C. 3681] (a)(1) Subject to subsection (b) of this section, and under such regulations as the President may prescribe, the Secretary of the Treasury shall pay to the Social Security System of the Republic of Panama, out of funds deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund under section 8334(a)(2) of title 5, United States Code, such sums of money as may be necessary to aid in the purchase of a retirement equity in such System for each individual who—

(A) meets the requirements of paragraph (2) of this subsection;

(B) is separated from employment in the Panama Canal Company, the Canal Zone Government, or the Commission by reason of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; and

(C) becomes employed in a position covered by the Social Security System of the Republic of Panama through the transfer of a function or activity to the Republic of Panama from the United States or through a job placement assistance program.

(2) This subsection applies with respect to any individual only if the individual—

(A) has been credited with at least 5 years of civilian service under section 8332 of title 5, United States Code, relating to creditable service for purposes of civil service retirement;

(B) is not eligible for an immediate retirement annuity under chapter 83 of title 5, United States Code, relating to civil service retirement, and elects not to receive a deferred annuity under that chapter based on any portion of that service; and

(C) elects to withdraw from the Civil Service Retirement and Disability Fund the individual's entire lump-sum credit (as defined in section 8331(8) of title 5, United States Code) and to transfer that amount to the Social Security System of the Republic of Panama pursuant to the special regime referred to

¹Sec. 1241 amended section 8336 of title 5, United States Code, to clarify eligibility requirements for early retirement of Panama Canal Company and Commission employees.

²Section 1242 amended section 8339(d) of title 5, United States Code, to clarify early retirement computation for Panama Canal Company and Commission employees.

in paragraph 3 of Article VIII of the Agreement in implementation of Article III of the Panama Canal Treaty of 1977.

(b) The amount paid to the Social Security System of the Republic of Panama with respect to any individual under subsection (a) of this section shall not exceed the individual's entire lump-sum credit (as so defined).

(c)(1) Pursuant to paragraph 2(b) of Annex C to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977, the President, or the President's designee, shall purchase from a source determined by the President to be appropriate, in accordance with such regulations as the President or the President's designee may prescribe and to such extent or in such amounts as may be provided in advance in appropriation Acts, a nontransferable deferred annuity for the benefit of each employee of an agency or instrumentality of the Government of the United States in the Republic of Panama—

(A) who is not a citizen of the United States;

(B) who was employed on October 1, 1979, and during any period before that date by an agency or instrumentality of the Government of the United States at any permanent duty station in the Republic of Panama (including, with respect to employment before that date, the area then known as the Canal Zone);

(C) who, for any period of service with such agency or instrumentality before October 1, 1979, at any such permanent duty station was not covered, by reason of that service, by the United States Civil Service Retirement System or any other Federal retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama; and

(D) who on October 1, 1979, is under a Federal retirement system and, on or before that date, has accrued in one or more agencies or instrumentalities of the United States a total of 5 years or more of service which—

(i) is creditable toward any Federal retirement system as in effect on October 1, 1979;

(ii) would have been creditable toward any such retirement system if the retirement system were in effect at the time of the service accrued by the employee; or

(iii) consists of any combination of service described in clauses (i) and (ii) of this subparagraph.

(2) The retirement annuity referred to in paragraph (1) of this subsection with respect to any employee will cover retroactively, from October 1, 1979, all periods of service, described in subparagraph (D) of that paragraph, by that employee at any permanent duty station in the Republic of Panama (including the area known before that date as the Canal Zone) in agencies and instrumentalities of the Government of the United States during which that employee was not covered by the United States Civil Service Retirement System or any other Federal retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama.

OBLIGATION OF COMMISSION FOR UNFUNDED LIABILITY

SEC. 1244.³

ADMINISTRATION OF CERTAIN DISABILITY BENEFITS

SEC. 1245. [22 U.S.C. 3682] (a)(1) The Commission, or any other United States Government agency or private entity acting pursuant to an agreement with the Commission, under the Act entitled "An Act authorizing cash relief for certain employees of the Panama Canal not coming within the provisions of the Canal Zone Retirement Act", approved July 8, 1937 (50 Stat. 478; 68 Stat. 17), may continue the payments of cash relief to those individual former employees of the Canal Zone Government or Panama Canal Company or their predecessor agencies not coming within the scope of the former Canal Zone Retirement Act whose services were terminated prior to October 5, 1958, because of unfitness for further useful service by reason of mental or physical disability resulting from age or disease.

(2) Subject to subsection (b), cash relief under this subsection may not exceed \$1.50 per month for each year of service of the employees so furnished relief, with a maximum of \$45 per month, plus the amount of any cost-of-living increases in such cash relief granted before October 1, 1979, pursuant to section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), nor be paid to any employee who, at the time of termination for disability prior to October 5, 1958, had less than 10 years' service with the Canal Zone Government, the Panama Canal Company, or their predecessor agencies on the Isthmus of Panama.

(b) An additional amount of \$20 per month shall be paid to each person who receives payment of cash relief under subsection (a) of this section and shall be allowed without regard to the limitations contained therein.

(c) Each cash relief payment made pursuant to this section shall be increased on the same effective date and by the same percent, adjusted to the nearest dollar, as civil service retirement annuities are increased under the cost-of-living adjustment provisions of section 8340(b) of title 5, United States Code. Such increase shall apply only to cash relief payments made after October 1, 1979, as increased by annuity increases made after that date under such section 8340(b).

(d) The Commission may pay cash relief to the widow of any former employee of the Canal Zone Government or the Panama Canal Company who, until the time of his death, receives or has received cash relief under subsection (a) of this section, under section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), or under the Act of July 8, 1937, referred to in such subsection (a). The term "widow" as used in this subsection includes only the following:

(1) a woman legally married to such employee at the time of his termination for disability and at his death;

³Section 1244 amended section 8384 of title 5, United States Code, by adding at the end a new subsection (i).

(2) a woman who, although not legally married to such former employee at the time of his termination, had resided continuously with him for at least five years immediately preceding the employee's termination under such circumstances as would at common law make the relationship a valid marriage and who continued to reside with him until his death; and

(3) a woman who has not remarried or assumed a common-law relationship with any other person.

Cash relief granted to such a widow shall not at any time exceed 50 percent of the rate at which cash relief, inclusive of any additional payment under subsection (b) of this section, would be payable to the former employee were he then alive.

(e) Subchapter III of chapter 83 of title 5, United States Code, applies with respect to those individuals who were in the service of the Canal Zone Government or the Panama Canal Company on October 5, 1958, and who, except for the operation of section 13(a)(1) of the Act entitled "An Act to implement item 1 of a Memorandum of Understanding attached to the treaty of January 25, 1955, entered into by the Government of the United States of America and the Government of the Republic of Panama with respect to wage and employment practices of the Government of the United States of America in the Canal Zone", approved July 25, 1958 (72 Stat. 405), would have been within the classes of individuals subject to the Act of July 8, 1937, referred to in subsection (a) of this section.

【Sec. 1246 repealed by section 3546(a)(6) of Public Law 104–201 (110 Stat. 2868)】

Subchapter V—Leave

【Sec. 1251 repealed by section 3546(a)(7) of Public Law 104–201 (110 Stat. 2868)】

Subchapter VI—Application to Related Personnel

LAW ENFORCEMENT; CANAL ZONE CIVILIAN PERSONNEL POLICY COORDINATION BOARD; RELATED EMPLOYEES

SEC. 1261. 【22 U.S.C. 3691】 (a) For the purposes of sections 1206, 1231, 1232, 1241, and 1242 of this Act, including any amendment made by those sections, the United States Attorney for the District of the Canal Zone and the Assistant United States Attorneys and their clerical assistants, and the United States Marshal for the District of the Canal Zone and his deputies and clerical assistants shall be considered employees of the Commission.

(b) For the purposes of this Act, including any amendment made by this Act, the Executive Director of the Canal Zone Civilian Personnel Policy Coordinating Board, the Manager, Central Examining Office, and their staffs shall be considered to have been employees of the Panama Canal Company with respect to service in those positions before October 1, 1979, and as employees of the Commission with respect to service in those positions on or after that date.

(c) The provisions of this section shall take effect on the date of the enactment of this Act.

Subchapter VII—Labor-Management Relations

LABOR-MANAGEMENT RELATIONS

SEC. 1271. [22 U.S.C. 3701] (a) Nothing in this Act shall be construed to affect the applicability of chapter 71 of title 5, United States Code, relating to labor-management and employee relations, with respect to the Commission or the operations of any other Executive agency conducted in that area of the Republic of Panama which, on September 30, 1979, was the Canal Zone, except that in applying those provisions—

(1) the definition of “employee” shall be applied without regard to clause (i) of section 7103(a)(2) of such title 5 which relates to nationality and citizenship;

(2) a unit shall be considered to be appropriate notwithstanding the fact that it includes any supervisor if that supervisor’s position (or type of position) was, before October 1, 1979, represented before the Panama Canal Company by a labor organization that included employees who were not supervisors; and

(3) any negotiated grievance procedures under section 7121 of title 5, United States Code, including any provisions relating to binding arbitration, shall, with respect to any personnel action to which subchapter II of chapter 75 of such title applies (as determined under section 7512 of such title), be available to the same extent and in the same manner as if employees of the Panama Canal Commission were not excluded from such subchapter under section 7511(b)(8) of such title.

(b) Labor-management and employee relations of the Commission, other Executive agencies, and the Smithsonian Institution, their employees, and organizations of those employees, in connection with operations conducted in that area of the Republic of Panama which, on September 30, 1979, was the Canal Zone, shall be governed and regulated solely by the applicable laws, rules, and regulations of the United States.

(c)(1) This subsection applies to any matter that becomes the subject of collective bargaining between the Commission and the exclusive representative for any bargaining unit of employees of the Commission during the period beginning on the date of the enactment of this subsection and ending on the Canal Transfer Date.

(2)(A) The resolution of impasses resulting from collective bargaining between the Commission and any such exclusive representative during that period shall be conducted in accordance with such procedures as may be mutually agreed upon between the Commission and the exclusive representative (without regard to any otherwise applicable provisions of chapter 71 of title 5, United States Code). Such mutually agreed upon procedures shall become effective upon transmittal by the Chairman of the Supervisory Board of the Commission to the Congress of notice of the agreement to use those procedures and a description of those procedures.

(B) The Federal Services Impasses Panel shall not have jurisdiction to resolve any impasse between the Commission and any

such exclusive representative in negotiations over a procedure for resolving impasses.

(3) If the Commission and such an exclusive representative do not reach an agreement concerning a procedure for resolving impasses with respect to a bargaining unit and transmit notice of the agreement under paragraph (2) on or before July 1, 1998, the following shall be the procedure by which collective bargaining impasses between the Commission and the exclusive representative for that bargaining unit shall be resolved:

(A) If bargaining efforts do not result in an agreement, either party may timely request the Federal Mediation and Conciliation Service to assist in achieving an agreement.

(B) If an agreement is not reached within 45 days after the date on which either party requests the assistance of the Federal Mediation and Conciliation Service in writing (or within such shorter period as may be mutually agreed upon by the parties), the parties shall be considered to be at an impasse and the Federal Mediation and Conciliation Service shall immediately notify the Federal Services Impasses Panel of the Federal Labor Relations Authority, which shall decide the impasse.

(C) If the Federal Services Impasses Panel fails to issue a decision within 90 days after the date on which notice under subparagraph (B) is received by the Panel (or within such shorter period as may be mutually agreed upon by the parties), the efforts of the Panel shall be terminated.

(D) In such a case, the Chairman of the Panel (or another member in the absence of the Chairman) shall immediately determine the matter by a drawing (conducted in such manner as the Chairman (or, in the absence of the Chairman, such other member) determines appropriate) between the last offer of the Commission and the last offer of the exclusive representative, with the offer chosen through such drawing becoming the binding resolution of the matter.

(4) In the case of a notice of agreement described in paragraph (2)(A) that is transmitted to the Congress as described in the second sentence of that paragraph after July 1, 1998, the impasse resolution procedures covered by that notice shall apply to any impasse between the Commission and the other party to the agreement that is unresolved on the date on which that notice is transmitted to the Congress.

CHAPTER 3—FUNDS AND ACCOUNTS

Subchapter I—Funds

【Sec. 1301 repealed by section 3546(a)(8) of Public Law 104–201 (110 Stat. 2868)】

PANAMA CANAL REVOLVING FUND

SEC. 1302. 【22 U.S.C. 3712】 (a) There is established in the Treasury of the United States a revolving fund to be known as “Panama Canal Revolving Fund”. The Panama Canal Revolving

Fund shall, subject to subsection (b), be available to the Commission to carry out the purposes, functions, and powers authorized by this Act, including for the following purposes:

- (1) The hire of passenger motor vehicles and aircraft.
- (2) Uniforms or allowances therefor.
- (3) Official receptions and representation expenses of the Board, the Secretary of the Commission, and the Administrator.
- (4) The operation of guide services.
- (5) A residence for the Administrator.
- (6) Disbursements by the Administrator for employee and community projects.
- (7) The procurement of expert and consultant services.
- (8) Promotional activities, including the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, film, or other media presentation designed to promote the Panama Canal as a resource of the world shipping industry.
- (9) The purchase and transportation to the Republic of Panama of passenger motor vehicles, including large, heavy-duty vehicles.
- (10) Payment to the Panama Canal Authority, not later than the Canal Transfer Date, of such amount as is computed by the Commission to be the future amount of severance pay to be paid by the Panama Canal Authority to employees whose employment with the Authority is terminated, to the extent that such severance pay is attributable to periods of service performed with the Commission before the Canal Transfer Date (and assuming for purposes of such computation that the Panama Canal Authority, in paying severance pay to terminated employees, will provide for crediting of periods of service with the Commission).

(b)(1) There shall be deposited in the Panama Canal Revolving Fund, on a continuing basis, toll receipts (other than amounts of toll receipts deposited into the Panama Canal Commission Dissolution Fund under section 1305) and all other receipts of the Commission. Except as provided in section 1303, 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 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 and the Panama Canal Commission Dissolution Fund during such fiscal year; plus

(B) the amount of revenues deposited in the Panama Canal Revolving Fund before such fiscal year and remaining unobligated at the beginning of such fiscal year; plus

(C) the \$100,000,000 borrowing authority provided for in section 1304 of this Act.

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

revenues deposited in the Panama Canal Revolving Fund during such fiscal year.

(c) 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 such other place and in such manner as the Commission and the Secretary may agree.

(d)(1) It is the sense of the Congress that the additional costs resulting from the implementation of the Panama Canal Treaty of 1977 and related agreements should be kept to the absolute minimum level. To this end, the Congress declares appropriated costs of implementation to be borne by the taxpayers over the life of such Treaty should be kept to a level no greater than the March 1979 estimate of those costs (\$870,700,000) presented to the Congress by the executive branch during consideration of this Act by the Congress, less personnel retirement costs of \$205,000,000, which were subtracted and charged to tolls, therefore resulting in net taxpayer cost of approximately \$665,700,000, plus appropriate adjustments for inflation.

(2) It is further the sense of the Congress that the actual costs of implementation be consistent with the obligations of the United States to operate the Panama Canal safely and efficiently and keep it secure.

(e)(1) The Panama Canal Commission and the Office of Transition Administration (described in section 3504 of Public Law 106-65) shall terminate on October 1, 2004.

(2) Upon termination pursuant to paragraph (1), the Panama Canal Revolving Fund shall be transferred to the General Services Administration (GSA). GSA shall use the amounts in the Fund to make payments of any outstanding liabilities of the Commission, as well as any expenses associated with the termination of the Office of Transition Administration and the Commission. The fund shall be the exclusive source available for payment of any outstanding liabilities of the Commission.

EMERGENCY AUTHORITY

SEC. 1303. **[22 U.S.C. 3713]** If authorizing legislation described in section section 1302(b)(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 be exercised only until authorizing legislation described in section section 1302(b)(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.

BORROWING AUTHORITY

SEC. 1304. [22 U.S.C. 3714] (a) The Panama Canal Commission may borrow from 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 amount 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.

DISSOLUTION OF COMMISSION

SEC. 1305. [22 U.S.C. 3714a] (a)(1) The Commission shall conduct a study of—

(A) the costs associated with the dissolution of the Commission, including the composition, location, and costs of the office authorized to be established under subsection (b); and

(B) costs and liabilities incurred or administered by the Commission that will not be paid before the date of that dissolution.

(2) The Commission shall submit to the Congress, by not later than September 30, 1996, a report on the findings and conclusions of the study under this subsection. The report shall include an estimate of the period of time which may be required to close out the affairs of the Commission after the termination of the Panama Canal Treaty of 1977.

(b) The Commission shall during fiscal year 1998 establish an office to close out the affairs of the Commission that are still pending after the termination of the Panama Canal Treaty of 1977.

(c)(1) There is established in the Treasury of the United States a fund to be known as the “Panama Canal Commission Dissolution Fund” (hereinafter in this section referred to as the “Fund”). The Fund shall be managed by the Commission until the termination of the Panama Canal Treaty of 1977 and by the office established under subsection (b) thereafter.

(2)(A) Subject to paragraph (5), the Fund shall be available after September 30, 1998, to pay—

(i) the costs of operating the office established under subsection (b); and

(ii) the costs and liabilities associated with dissolution of the Commission, including such costs incurred or identified after the termination of the Panama Canal Treaty of 1977.

(B) Payments from the Fund made during the period beginning on October 1, 1998, and ending with the termination of the Panama Canal Treaty of 1977 shall be subject to the approval of the Board provided for in section 1102.

(3) The Fund shall consist of—

(A) such amounts as may be deposited into the Fund by the Commission, from amounts collected as toll receipts, to pay the costs described in paragraph (2); and

(B) amounts credited to the Fund under paragraph (4).

(4)(A) The Secretary of the Treasury shall invest excess amounts in the Fund in public debt securities with maturities suitable to the needs of the Fund, as determined by the manager of the Fund.

(B) Securities invested under subparagraph (A) shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

(C) Interest earned on securities invested under subparagraph (A) shall be credited to and form part of the Fund.

(5)(A) Amounts in the Fund may not be obligated or expended in any fiscal year unless the obligation or expenditure is specifically authorized by law.

(B) The office established by subsection (b) is authorized to expend or obligate funds from the Fund for the purposes enumerated in clauses (i) and (ii) of paragraph (2)(A) until October 1, 2004.

(6) The Fund shall terminate on October 1, 2004. Amounts in the Fund on that date shall be deposited in the general fund of the Treasury of the United States.

PRINTING

SEC. 1306. [22 U.S.C. 3714b] (a) Sections 501 through 517 and 1101 through 1123 of title 44, United States Code, shall not apply to direct purchase by the Commission for its use of printing, binding, and blank-book work in the Republic of Panama when the Commission determines that such direct purchase is in the best interest of the Government.

(b) This section shall not affect the Commission's authority, under chapter 5 of title 44, United States Code, to operate a field printing plant.

Subchapter II—Accounting Policies and Audits

ACCOUNTING POLICIES

SEC. 1311. [22 U.S.C. 3721] (a) The Commission shall establish and maintain its accounts pursuant to chapter 91 of title 31, United States Code, and the provisions of this chapter. Such accounts shall specify all revenues received by the Commission, including tolls for the use of the Panama Canal, expenditures for capital replacement, expansion, and improvement, and all costs of maintenance and operation of the Panama Canal and of its complementary works, installations, and equipment, including depreciation, payments to the Republic of Panama under the Panama

Canal Treaty of 1977, and interest on the investment of the United States calculated in accordance with section 1603 of this Act.

(b) The Commission may issue regulations establishing the basis of accounting for the assets which are made available for the use of the Commission. Such regulations may provide for depreciation of the net replacement value of the assets which will ultimately require replacement to maintain the service capacity of the Panama Canal. Such regulations may also provide the depreciation of such assets be recorded ratably over their service lives.

【Sec. 1312. Repealed by section 2201(a) of Public Law 104–66 (109 Stat. 707).】

AUDITS

SEC. 1313. 【22 U.S.C. 3723】 (a) Notwithstanding any other provision of law, and subject to subsection (c), financial transactions of the Commission shall be audited by the Comptroller General of the United States (hereinafter in this Act referred to as the “Comptroller General”). In conducting any such audit, the appropriate representatives of the Comptroller General shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission and necessary to facilitate such audit, and such representative shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. Any such audit shall first be conducted with respect to the fiscal year in which this Act becomes effective. An audit performed under this section is subject to the requirements of paragraphs (2), (3), and (5) of section 9105(a) of title 31, United States Code.

(b) Subject to subsection (c), the Comptroller General shall, not later than six months after the end of each fiscal year, submit to the Congress a report of the audit conducted pursuant to subsection (a) of this section with respect to such fiscal year. Such report shall set forth the scope of the audit and shall include—

(1) a statement of assets and liabilities, capital, and surplus or deficit, based on the accounts of the Commission established pursuant to this chapter.

(2) a statement of income and expenses,

(3) a statement of sources and application of funds,

(4) a statement listing all direct and indirect costs incurred by the United States in implementing the Panama Canal Treaty of 1977, including the cost of property transferred to the Republic of Panama during each fiscal year, and

(5) such comments and information as the Comptroller General considers necessary to keep the Congress informed of the operations and financial transactions of the Commission, together with such recommendations with respect to such operations and transactions as the Comptroller General considers advisable.

The report shall identify specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit which, in the opinion of the Comptroller General, has been carried out or made and has not been authorized by law. The

Comptroller General shall submit a copy of each such report to the President, the Secretary of the Treasury, and the Commission.

(c) At the discretion of the Board provided for in section 1102, the Commission may hire independent auditors to perform, in lieu of the Comptroller General, the audit and reporting functions prescribed in subsections (a) and (b).

(d) In addition to auditing the financial statements of the Commission, the Comptroller General (or the independent auditor if one is employed pursuant to subsection (c)) shall, in accordance with standards for an examination of a financial forecast established by the American Institute of Certified Public Accountants, examine and report on the Commission's financial forecast that it will be in a position to meet its financial liabilities on December 31, 1999.

Subchapter III—Interagency Accounts

INTERAGENCY SERVICES; REIMBURSEMENTS

SEC. 1321. [22 U.S.C. 3731] (a) The Commission shall reimburse the Employees' Compensation Fund, Bureau of Employee's Compensation, Department of Labor, for the benefit payments to the Commission's employees, and shall also reimburse other Government departments and agencies for payments of a similar nature made on its behalf.

(b) The Department of Defense shall reimburse the Commission for amounts expended by the Commission in maintaining defense facilities in standby condition for the Department of Defense.

(c) Notwithstanding any other provision of law, funds appropriated (for any fiscal year beginning after September 30, 1979) to or for the use of the Department of Defense, or to any other department or agency of the United States as may be designated by the President to carry out the purposes of this subsection, shall be available for—

(1) conducting the educational and health care activities, including kindergartens and college, carried out by the Canal Zone Government and the Panama Canal Company before October 1, 1979, and

(2) providing the services related thereto to the categories of persons to which such services were provided before October 1, 1979.

Notwithstanding any other provision of law, the Department of Defense, or any department or agency designated by the President to provide health care services to those categories of persons referred to in this subsection, shall provide such services to such categories of persons on a basis no less favorable than that applied to its own employees and their dependents.

(d) Amounts expended for furnishing services referred to in subsection (c) of this section to persons eligible to receive them, less amounts payable by such persons, shall be fully reimbursable to the department or agency furnishing the services, except to the extent that such expenditures are the responsibility of that department or agency. The funds of the Commission shall be available for such reimbursements on behalf of—

(1) employees of the Commission, and

(2) other persons authorized to receive such services who are eligible to receive them pursuant to the Panama Canal Treaty of 1977 and related agreements.

The appropriations or funds of any other department or agency of the United States conducting operations in the Republic of Panama, including the Smithsonian Institution, shall be available for reimbursements on behalf of employees of such department or agency and their dependents.

(e) The appropriations or funds of the Commission, or of any other department or agency of the United States conducting operations in the Republic of Panama, shall be available to defray the cost of—

(1) health care services provided by medical facilities licensed and approved by the Republic of Panama (and not operated by the United States) to elderly or disabled persons who were eligible to receive such services before the effective date of this Act, less amounts payable by such persons, and

(2) educational services provided by schools in the Republic of Panama or the United States, which are not operated by the United States, to employees of the Commission who are citizens of the United States, to other Commission employees when determined by the Commission to be necessary for their recruitment or retention, and to other persons who were receiving such services at the expense of the Canal Zone Government before the effective date of this Act.

Notwithstanding the provisions relating to the availability of adequate schools contained in section 5924(4)(A) of title 5, United States Code, the Commission shall by regulation determine the extent to which costs of educational services may be defrayed under this subsection.

(f) For purposes of the reimbursement of the United States by the Republic of Panama for the salaries and other employment costs of employees of the Commission who are assigned to assist the Republic of Panama in the operation of activities which are transferred to that Government as a result of any provision of the Panama Canal Treaty of 1977 and related agreements which reimbursement is provided for in paragraph 8 of Article 10 of that Treaty, the Commission shall be deemed to be the United States of America.

(g) Notwithstanding any other provision of law, the President, through the appropriate department or agency of the United States, shall, until January 1, 2000, operate the educational institution known as the “Canal Zone College”. Such institution shall continue to provide, insofar as practicable, the level of services which it offered immediately before the effective date of this Act.

(h) Except as expressly provided in this Act, funds available to the Panama Canal Commission may not be made available to any other agency as that term is defined in section 551 of title 5, United States Code, nor may funds be authorized or appropriated for any function other than Panama Canal Commission activities.

Subchapter IV—Postal Matters

POSTAL SERVICE

SEC. 1331. [22 U.S.C. 3741] (a) The Commission shall take possession of and administer the funds of the Canal Zone postal service and shall assume its obligations.

(b) Effective December 1, 1999, neither the Commission nor the United States Government shall be responsible for the distribution of any accumulated unpaid balances relating to Canal Zone postal-savings deposits, postal-savings certificates, and postal money orders.

(c) Mail addressed to the Canal Zone from or through the continental United States may be routed by the United States Postal Service to the military post offices of the United States Armed Forces in the Republic of Panama. Such military post offices shall provide the required directory services and shall accept such mail to the extent permitted under the Panama Canal Treaty of 1977 and related agreements. The Commission shall furnish personnel, records, and other services to such military post offices to assure wherever appropriate the distribution, rerouting, or return of such mail.

Subchapter V—Accounts With the Republic of Panama

PAYMENTS TO THE REPUBLIC OF PANAMA

SEC. 1341. [22 U.S.C. 3751] (a) The Commission shall pay to the Republic of Panama those payments required under paragraph 5 of Article III and paragraph 4 of Article XIII of the Panama Canal Treaty of 1977. Payments made under paragraph 5 of Article III of such Treaty shall be audited annually by the Comptroller General and any overpayment, as determined in accordance with Understanding (1) incorporated in the Resolution of Ratification of the Panama Canal Treaty (adopted by the United States Senate on April 18, 1978), for the service described in that paragraph which are provided shall be refunded by the Republic of Panama or set off against amounts payable by the United States to the Republic of Panama under paragraph 5 of Article III of the Panama Canal Treaty of 1977.

(b) In determining whether operating revenues exceed expenditures for the purpose of payments to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, such operating revenues in a fiscal period shall be reduced by (1) all costs of such period as shown by the accounts established pursuant to section 1311 of this Act, and (2) the cumulative sum from prior years (beginning with the year in which the Panama Canal Treaty of 1977 enters into force) of any excess of costs of the Panama Canal Commission over operating revenues.

(c) The President shall not accede to any interpretation of paragraph 1 of Article IX of the Panama Canal Treaty of 1977 which would permit the Republic of Panama to tax retroactively organizations and businesses operating, and citizens of the United States living, in the Canal Zone before the effective date of this Act.

(d) Any accumulated unpaid balance under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 at the termination of such Treaty shall be payable only to the extent of any operating surplus in the last year of the Treaty's duration, and nothing in such paragraph may be construed as obligating the United States to pay after the date of the termination of the Treaty any such unpaid balance which has accrued before such date.

(e) As provided in section 1602(b) of this Act, tolls shall not be prescribed at rates calculated to cover payments to the Republic of Panama pursuant to paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977. Moreover, no payments may be made to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 unless unexpended funds are used to pay all costs of operation and maintenance of the canal, including but not limited to (1) operating expenses determined in accordance with generally accepted accounting principles, (2) payments to the Republic of Panama under paragraphs 4(a) and 4(b) of such Article XIII and under paragraph (5) of Article III of such Treaty, (3) amounts in excess of depreciation and amortization which are programmed for plant replacement, expansion, and improvements, (4) payments to the Treasury of the United States under section 1603 of this Act, (5) reimbursement to the Treasury of the United States for costs incurred by other departments and agencies of the United States in providing educational, health, and other services to the Commission, its employees and their dependents, and other categories of persons in accordance with section 1321 of this Act, (6) any costs of Treaty implementation associated with the maintenance and operation of the Panama Canal, and (7) amounts programmed to meet working capital requirements.

(f) The prohibitions contained in this section and in sections 1302(b) and 1503 of this Act shall apply notwithstanding any other provisions of law authorizing transfers of funds between accounts, reprogramming of funds, use of funds for contingency purposes, or waivers of prohibitions.

(g) Notwithstanding any other provision of law, no reduction under any order issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 shall apply to the Commission if the implementation of such an order would result in a payment to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 and this section.

TRANSACTIONS WITH THE REPUBLIC OF PANAMA

SEC. 1342. [22 U.S.C. 3752] (a) The Commission may, on a reimbursable basis, provide to the Republic of Panama materials, supplies, equipment, work, or services, including water and electric power, requested by the Republic of Panama, at such rates as may be agreed upon by the Commission and the Republic of Panama. Payment for such materials, supplies, equipment, work, or services may be made by direct payment by the Republic of Panama to the Commission or by offset against amounts due the Republic of Panama by the United States.

(b) The Commission may provide office space, equipment, supplies, personnel, and other in-kind services to the Panama Canal Authority on a nonreimbursable basis.

(c) Any executive department or agency of the United States may, on a reimbursable basis, provide to the Panama Canal Authority materials, supplies, equipment, work, or services requested by the Panama Canal Authority, at such rates as may be agreed upon by that department or agency and the Panama Canal Authority.

DISASTER RELIEF

SEC. 1343. [22 U.S.C. 3753] If an emergency arises because of disaster or calamity by flood, hurricane, earthquake, fire, pestilence, or like cause, not foreseen or otherwise provided for, and occurring in the Republic of Panama in such circumstances as to constitute an actual or potential hazard to health, safety, security, or property in the areas and installations made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, the Commission may expend funds available to the Commission for such purpose, and utilize or furnish materials, supplies, equipment and services for relief, assistance, and protection.

CONGRESSIONAL RESTRAINTS ON PROPERTY TRANSFERS AND TAX EXPENDITURES

SEC. 1344. [22 U.S.C. 3754] (a) The Congress enacts this section in the exercise of its authority under Article IV, section 3, clause 2 of the Constitution of the United States to dispose of and make necessary rules and regulations with respect to property of the United States.

(b) Prior to the transfer of property of the United States located in the Republic of Panama to the Republic of Panama pursuant to section 1504 of this Act, the President shall formally advise the Government of Panama that—

(1) in fulfilling its obligations under the Panama Canal Treaty of 1977, the United States shall make no payments to the Republic of Panama derived from tax revenues of the United States;

(2) the United States retains full discretion and authority to determine whether and the extent to which tax revenues of the United States may be expended in exercising United States rights and carrying out United States responsibilities under the Panama Canal Treaty of 1977 and related agreements;

(3) no tax revenues of the United States shall be made available for obligations and expenditures after the effective date of this Act for purposes of implementing the Panama Canal Treaty of 1977 and related agreements, unless hereafter specifically approved by the Congress through the authorization and appropriation process;

(4) the total amount expended by the Commission from funds available to or for the use of the Commission shall not exceed the total amount deposited in the Panama Canal Revolving Fund; and

(5) the foregoing paragraphs of this subsection do not apply to expenditures made by the United States in fulfilling United States obligations to transfer the remains of our honored dead from Mount Hope Cemetery in the former Canal Zone to an appropriate and dignified place in accordance with Reservation 3 to the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

CHAPTER 4—CLAIMS FOR INJURIES TO PERSONS OR PROPERTY

Subchapter I—General Provisions

SETTLEMENT OF CLAIMS GENERALLY

SEC. 1401. [22 U.S.C. 3761] (a) Subject to the provisions of this chapter, the Commission may adjust and pay claims for injury to, or loss of, property or for personal injury or death, arising from the operation of the Panama Canal or related facilities and appurtenances.

(b) The Commission may pay not more than \$50,000 on any claim described in subsection (a).

(c) An award made to a claimant under this section shall be payable out of any moneys made available to the Commission. The acceptance by the claimant of the award shall be final and conclusive on the claimant, and shall constitute a complete release by the claimant of his claim against the United States and against any employee of the United States acting in the course of his employment who is involved in the matter giving rise to the claim.

(d) Except as provided in section 1416 of this Act, no action for damages on claims cognizable under this chapter shall be against the United States or the Commission, and no such action shall lie against any officer or employee of the United States. Neither this section nor section 1416 of this Act shall preclude actions against officers or employees of the United States for injuries resulting from their acts outside the scope of their employment or not in the line of their duties, or from their acts committed with the intent to injure the person or property of another.

(e) The provisions of section 1346(b) of title 28, United States Code, and the provisions of chapter 171 of such title shall not apply to claims cognizable under this chapter.

Subchapter II—Vessel Damage

INJURIES IN LOCKS OF CANAL

SEC. 1411. [22 U.S.C. 3771] (a) Subject to section 1419(b) of this Act and to subsection (b) of this section, the Commission shall promptly adjust and pay damages for injuries to vessels, or to the cargo, crew, or passengers of vessels, which may arise by reason of their passage through the locks of the Panama Canal when the injury was proximately caused by negligence or fault on the part of an officer or employee of the United States acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal. If the negligence or fault of the vessel, master, crew, or passengers proximately contributed to the injury, the award of damages shall be diminished in proportion to the neg-

ligence to fault attributable to the vessel, master, crew, or passengers. Damages may not be allowed and paid for injuries to any protrusion beyond any portion of the hull of a vessel, whether it is permanent or temporary in character. A vessel is considered to be passing through the locks of the Canal, under the control of officers or employees of the United States, from the time the first towing line is made fast on board before entrance into the locks and until the towing lines are cast off upon, or immediately prior to, departure from the lock chamber. No payment for damages on a claim may be made under this section unless the claim is filed with the Commission within one year after the date of the injury or by November 18, 1998, whichever is later.

(b)(1) With respect to a claim under subsection (a) for damages for injuries to a vessel or its cargo, if, at the time the injuries were incurred, the navigation or movement of the vessel was not under the control of a Panama Canal pilot, the Commission may pay not more than \$50,000 on the claim, unless the injuries were caused by another vessel under the control of a Panama Canal pilot.

(2) The provisions of subsections (c) through (e) of section 1401 of this Act shall apply to any claim described in paragraph (1).

INJURIES OUTSIDE LOCKS

SEC. 1412. [22 U.S.C. 3772] Subject to section 1419(b) of this Act, the Commission shall promptly adjust and pay damages for injuries to vessels, or to the cargo, crew, or passengers of vessels which may arise by reason of their presence in the Panama Canal, or waters adjacent thereto, other than the locks, when the injury was proximately caused by negligence or fault on the part of an officer or employee of the United States acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal. If the negligence or fault of the vessel, master, crew, or passengers proximately contributed to the injury, the award of damages shall be diminished in proportion to the negligence or fault attributable to the vessel, master, crew, or passengers. In the case of a vessel which is required by or pursuant to regulations prescribed pursuant to section 1801 of this Act to have a Panama Canal pilot on duty aboard, damages may not be adjusted and paid for injuries to the vessel, or its cargo, crew, or passengers, incurred while the vessel was underway and in motion, unless at the time the injuries were incurred the navigation or movement of the vessel was under the control of a Panama Canal pilot. No payment for damages on a claim may be made under this section unless the claim is filed with the Commission within one year after the date of the injury or the date of by November 18, 1998, whichever is later.

MEASURE OF DAMAGES GENERALLY

SEC. 1413. [22 U.S.C. 3773] In determining the amount of the award of damages for injuries to a vessel for which the Commission is determined to be liable there may be included—

(1) the actual or estimated cost of repairs;

(2) charter hire actually lost by the owners, or charter hire actually paid, depending upon the terms of the charter party, for the time the vessel is undergoing repairs;

(3) maintenance of the vessel and wages of the crew, if they are found to be actual additional expenses or losses incurred outside of the charter hire; and

(4) other expenses which are definitely and accurately shown to have been incurred necessarily and by reason of the accident or injuries.

Agent's fees, or commissions, or other incidental expenses of similar character, or any items which are indefinite, indeterminable, speculative, or conjectural may not be allowed. The Commission shall be furnished such vouchers, receipts, or other evidence as may be necessary in support of any item of a claim. If a vessel is not operated under charter but by the owner directly, evidence shall be secured if available as to the sum for which vessels of the same size and class can be chartered in the market. If the charter value cannot be determined, the value of the vessel to its owners in the business in which it was engaged at the time of the injuries shall be used as a basis for estimating the damages for the vessel's detention; and the books of the owners showing the vessel's earnings about the time of the accident or injuries shall be considered as evidence of probable earnings during the time of detention. If the books are unavailable, such other evidence shall be furnished as may be necessary.

DELAYS FOR WHICH NO RESPONSIBILITY IS ASSUMED

SEC. 1414. [22 U.S.C. 3774] The Commission is not responsible, and may not consider any claim, for demurrage or delays caused by—

- (1) landslides or other natural causes;
- (2) necessary construction or maintenance work of Canal locks, terminals, or equipment;
- (3) obstruction arising from accidents;
- (4) time necessary for admeasurement;
- (5) congestion of traffic;
- (6) investigation of a marine accident that is conducted within 24 hours after the accident occurs, except that any liability of the Commission beyond that 24-hour period shall be limited to the extent to which the accident was caused, or contributed to, by the negligence of an employee of the Commission acting within the scope of the employee's official duties; or
- (7) except as specially set forth in this subchapter, any other cause.

SETTLEMENT OF CLAIMS

SEC. 1415. [22 U.S.C. 3775] The Commission, by mutual agreement, compromise, or otherwise, may adjust and determine the amounts of the respective awards of damages pursuant to this subchapter. Such amounts may be paid only out of money allotted for the maintenance and operation of the Panama Canal. Acceptance by a claimant of the amount awarded to him shall be deemed

to be in full settlement of such claim against the Government of the United States.

ACTIONS ON CLAIMS

SEC. 1416. [22 U.S.C. 3776] Subject to section 1419(b) of this Act, a claimant for damages pursuant to section 1411(a) or 1412 of this Act who considers himself aggrieved by the findings, determination, or award of the Commission in reference to his claim may bring an action on the claim against the Commission in the United States District Court for the Eastern District of Louisiana. Subject to the provisions of this chapter and of applicable regulations issued pursuant to section 1801 of this Act relative to navigation of the Panama Canal and adjacent waters, such actions shall proceed and be heard by the court without a jury according to the principles of law and rules of practice obtaining generally in like cases between a private party and a department or agency of the United States. Any judgment obtained against the Commission in an action under this subchapter may be paid out of money allotted for the maintenance and operation of the Panama Canal. An action for damages cognizable under this section shall not otherwise lie against the United States or the Commission, nor in any other court, than as provided in this section; nor may it lie against any officer or employee of the United States or of the Commission. Any action on a claim under this section shall be barred unless the action is brought within 180 days after the date on which the Commission mails to the claimant written notification of the Commission's final determination with respect to the claim or by May 17, 1998, whichever is later. Attorneys appointed by the Commission shall represent the Commission in any action arising under this subchapter.

INVESTIGATION OF ACCIDENT OR INJURY GIVING RISE TO CLAIM

SEC. 1417. [22 U.S.C. 3777] Notwithstanding any other provision of law, a claim may not be considered under this subchapter, or an action for damages lie thereon, unless, prior to the departure from the Panama Canal of the vessel involved—

(1) an investigation of the accident or injury giving rise to the claim has been completed, which shall include a hearing by the Board of Local Inspectors of the Commission; and

(2) the basis for the claim has been laid before the Commission.

BOARD OF LOCAL INSPECTORS

SEC. 1418. [22 U.S.C. 3778] (a) The President shall provide for the establishment of a Board of Local Inspectors of the Panama Canal Commission which shall perform, in accordance with regulations prescribed by the President—

(1) the investigations required by section 1417 of this Act; and

(2) such other duties with respect to marine matters as may be assigned by the President.

(b) In conducting any investigation pursuant to subsection (a) of this section, the Board of Local Inspectors established pursuant

to such subsection may summon witnesses, administer oaths, and require the production of books and papers necessary for such investigation.

INSURANCE

SEC. 1419. (a) [22 U.S.C. 3779] The Commission is authorized to purchase insurance to protect the Commission against major and unpredictable revenue losses or expenses arising from catastrophic marine accidents or other unpredictable events.

(b)(1) The Commission may by regulation require as a condition of transit through the Panama Canal or presence in the Panama Canal or waters adjacent thereto that any potential claimant under section 1411 or 1412 of this Act be covered by insurance against the types of injuries described in those sections. The amount of insurance so required shall be specified in those regulations, but may not exceed \$1,000,000.

(2) In a claim under section 1411 or 1412 of this Act for which the Commission has required insurance under this subsection, the Commission's liability shall be limited to the amount of damages in excess of the amount of insurance required by the Commission.

(3) In regulations under this subsection, the Commission may prohibit consideration or payment by it of claims presented by or on behalf of an insurer or subrogee of a claimant in a case for which the Commission has required insurance under this subsection.

CHAPTER 5—PUBLIC PROPERTY

ASSETS AND LIABILITIES OF PANAMA CANAL COMPANY

SEC. 1501. [22 U.S.C. 3781] All property and other assets of the Panama Canal Company shall revert to the United States on the effective date of this Act, and, except as otherwise provided by law, the United States shall assume the liabilities, including contractual obligations, of the Panama Canal Company then outstanding. The Commission may use such property, facilities, and records of the Panama Canal Company as are necessary to carry out its functions.

TRANSFERS AND CROSS-SERVICING BETWEEN AGENCIES

SEC. 1502. [22 U.S.C. 3782] (a) In the interest of economy and maximum efficiency in the utilization of property and facilities of the United States, there are authorized to be transferred between departments and agencies of the United States, with or without reimbursement, such facilities, buildings, structures, improvement, stock, and equipment located in the Republic of Panama, and used for their activities therein, as may be mutually agreed upon by the departments and agencies involved and approved by the President of the United States or his designee.

(b) The Commission may enter into cross-serving agreements with any other department or agency of the United States for the use of facilities, furnishing of services, or performance of functions.

(c) The Commission, any department or agency of the United States, or any United States court in the Republic of Panama is au-

thorized to transfer to the Government of the Republic of Panama any record of such Commission, department, agency, or court, or copy thereof, including any record acquired from the Canal Zone Government or Panama Canal Company (including any vital statistics record), to any other department, agency, or court of the United States if such action is determined by the Commission, the head of the department or agency concerned, or the judge of the court concerned to be in the interest of the United States. Transfer of any record or copy thereof under this section to the Government of the Republic of Panama shall be made under the coordination of and with the approval of the United States Ambassador to the Republic of Panama.

(d) The provisions of this section shall apply to the Smithsonian Institution.

DISPOSITION OF PROPERTY OF THE UNITED STATES

SEC. 1503. [22 U.S.C. 3783] No property of the United States located in the Republic of Panama may be disposed of except pursuant to law enacted by the Congress.

TRANSFER OF PROPERTY TO PANAMA

SEC. 1504. [22 U.S.C. 3784] (a)(1) On the date on which the Panama Canal Treaty of 1977 enters into force, the Secretary of State may convey to the Republic of Panama the Panama Railroad and such property located in the area which, immediately before such date, comprised the Canal Zone and which is not within the land and water areas the use of which is made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

(2) Property transferred pursuant to paragraph (1) of this subsection may not include buildings and other facilities, except housing, located outside such areas, the use of which is retained by the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b) With respect to the transfer of all other property (not described in subsection (a)(1) of this section) to be transferred in accordance with the terms of the Panama Canal Treaty of 1977 and related agreements, the Secretary of State may convey such property from time to time in accordance with the terms of such Treaty and related agreements. Before the transfer of any such property, the President must submit a written report to the Congress—

(1) precisely identifying and describing the particular property to be transferred;

(2) certifying the state of compliance by the Republic of Panama with such Treaty and related agreements; and

(3) setting forth the reasons for the conveyance being made at the particular time.

(c) The Panama Canal, and such other property referred to in paragraph 2(d) of Article XIII of the Panama Canal Treaty of 1977 that has not been previously transferred in accordance with paragraphs 2(a), 2(b), and 2(c) of such Article, shall not be transferred to the Republic of Panama prior to December 31, 1999.

CHAPTER 6—TOLLS FOR USE OF THE PANAMA CANAL

PRESCRIPTION OF MEASUREMENT RULES AND RATES OF TOLLS

SEC. 1601. [22 U.S.C. 3791] The Commission may, subject to the provisions of this Act, prescribe and from time to time change—

(1) the rules for the measurement of vessels for the Panama Canal; and

(2) the tolls that shall be levied for use of the Panama Canal.

BASES OF TOLLS

SEC. 1602. [22 U.S.C. 3792] (a) Tolls on merchant vessels, army and navy transports, colliers, tankers, hospital ships, and supply ships shall be based on net vessel tons of one hundred cubic feet each of actual earning capacity, or its equivalent, determined in accordance with the rules for the measurement of vessels for the Panama Canal, and tolls on other floating craft shall be based on displacement tonnage. The tolls on vessels in ballast without passengers or cargo may be less than the tolls for vessels with passengers or cargo. Tolls for small vessels (including yachts), as defined by the Commission, may be set at rates determined by the Commission without regard to the preceding provisions of this subsection.

(b) Tolls shall be prescribed at rates calculated to produce revenues to cover as nearly as practicable all costs of maintaining and operating the Panama Canal (including costs authorized to be paid from the Panama Canal Dissolution Fund under section 1305(c)), together with the facilities and appurtenances related thereto, including unrecovered costs incurred on or after the effective date of this Act, interest, depreciation, working capital, payments to the Republic of Panama pursuant to paragraph 5 of Article III and paragraph 4 (a) and (b) of Article XIII of the Panama Canal Treaty of 1977, and capital for plant replacement, expansion, and improvements. Tolls shall not be prescribed at rates calculated to produce revenues sufficient to cover payments to the Republic of Panama pursuant to paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977.

(c) Vessels operated by the United States, including vessels of war and auxiliary vessels, and ocean-going training ships owned by the United States and operated by State nautical schools, shall pay tolls.

(d) The levy of tolls is subject to the provisions of section 1 of Article III of the treaty between the United States of America and Great Britain signed November 18, 1901, of Article I of the treaty between the United States of America and the Republic of Colombia signed April 6, 1914, and of Articles II, III, and VI of the Treaty Concerning Permanent Neutrality and Operation of the Panama Canal, between the United States of America and the Republic of Panama, signed September 7, 1977.

CALCULATION OF INTEREST

SEC. 1603. [22 U.S.C. 3793] (a) For purposes of sections 1311 and 1602 of this Act, interest shall be computed, at the rate deter-

mined by the Secretary of the Treasury, on the investment of the United States in the Panama Canal as shown in the accounts of the Panama Canal Company at the close of business on the day preceding the effective date of this Act, and as adjusted in accordance with subsections (b) and (c) of this section. Capital investment for interest purposes shall not include any interest during construction.

(b) The investment of the United States described in subsection (a) of this section—

(1) shall be increased by—

(A) the amount of expenditures from the Panama Canal Revolving Fund, and

(B) the value of property transferred to the Commission by any other department or agency of the United States, as determined in accordance with subsection (c) of this section; and

(2) shall be decreased by—

(A) the amount of the funds deposited in the Panama Canal Revolving Fund,

(B) the value of property transferred to the Republic of Panama pursuant to this or any other Act on or after the date on which the Panama Canal Treaty of 1977 enters into force, and

(C) the value of property transferred by the Commission to any other department or agency of the United States.

(c) The value of property transferred to the Commission by any other department or agency of the United States shall be determined by the Director of the Office of Management and Budget. In computing such value, such Director shall give due consideration to the cost and probable earning power of the transferred property, or the usable value to the Commission if clearly less than cost, and shall make adequate provisions for depreciation, obsolescence, and other determinable decreases in value. Insofar as practicable, the value of such transferred property shall exclude any portion of such value properly allocable to national defense.

(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.

PROCEDURES

SEC. 1604. [22 U.S.C. 3794] (a) The Commission shall publish in the Federal Register notice of any proposed change in the rules of measurement or rates of tolls referred to in section 1601 of this Act. The Commission shall give interested parties an opportunity to participate in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the notice. The notice shall include the substance of the proposed change and a statement of the time, place, and nature of the proceedings. At the time of publication of such notice, the Commission shall make available to the public an analysis showing the basis

and justification for the proposed change, which, in the case of a change in rates of tolls, shall indicate the conformity of the existing and proposed rates of tolls with the requirements of section 1602 of this Act, and the Commission's adherence to the requirement for full consideration of the following factors set forth in Understanding (1) incorporated in the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (adopted by the United States Senate on March 16, 1978):

(1) the costs of operating and maintaining the Panama Canal;

(2) the competitive position of the use of the Canal in relation to other means of transportation;

(3) the interests of the United States and the Republic of Panama in maintaining their domestic fleets;

(4) the impact of such a change in rates of tolls on the various geographical areas of each of the two countries; and

(5) the interests of both countries in maximizing their international commerce.

(b) After consideration of the relevant matter presented, the Commission may revise the proposed rules of measurement or rates of tolls, as the case may be, except that, in the case of rates of tolls, if such revision proposes rates greater than those originally proposed, a new analysis of the proposed rates shall be made available to the public, and a new notice of the revised proposal shall be published in the Federal Register apprising interested persons of the opportunity to participate further in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the new notice. The procedure set forth in this subsection shall be followed for any subsequent revision of the proposed rates of tolls by the Commission which proposes rates higher than those in the preceding proposal.

(c) After the proceedings have been conducted pursuant to subsections (a) and (b), the Commission may change the rules of measurement or rates of tolls, as the case may be. The Commission shall publish notice of any such change in the Federal Register not less than 30 days before the effective date of the change.

(d) Action to change the rules of measurement for the Panama Canal or the rates of tolls for the use of the Canal pursuant to this chapter shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

【Sec. 1605 repealed by section 3546(a)(1) of Public Law 104–201 (110 Stat. 2867)】

CHAPTER 7—GENERAL REGULATIONS

【Sec. 1701 repealed by section 3546(a)(2) of Public Law 104–201 (110 Stat. 2867)】

【Sec. 1702 repealed by section 3546(a)(3) of Public Law 104–201 (110 Stat. 2867)】

CHAPTER 8—SHIPPING AND NAVIGATION

Subchapter I—Operation of Canal

OPERATING REGULATIONS

SEC. 1801. [22 U.S.C. 3811] The Commission may prescribe, and from time to time amend, regulations governing—

- (1) the operation of the Panama Canal;
- (2) the navigation of the harbors and other waters of the Panama Canal and areas adjacent thereto, including the ports of Balboa and Cristobal;
- (3) the passage and control of vessels through the Panama Canal or any part thereof, including the locks and approaches thereto;
- (4) pilotage in the Panama Canal or the approaches thereto through the adjacent waters; and
- (5) the licensing of officers or other operators of vessels navigating the waters of the Panama Canal and areas adjacent thereto, including the ports of Balboa and Cristobal.

Subchapter II—Inspection of Vessels

VESSELS SUBJECT TO INSPECTION

SEC. 1811. [22 U.S.C. 3821] With the exception of private vessels merely transiting the Panama Canal, and of public vessels of all nations, vessels navigating the waters of the Panama Canal shall be subject to an annual inspection of hulls, boilers, machinery, equipment, and passenger accommodations.

FOREIGN VESSELS

SEC. 1812. [22 U.S.C. 3822] With respect to a foreign vessel of a country which has inspection laws approximating those of the United States, any such vessel having an unexpired certificate of inspection duly issued by the authorities of such country shall not be subject to an inspection other than that necessary to determine whether the vessel, its boilers, and its lifesaving equipment are as stated in the certificate of inspection. A certificate of inspection may not be accepted as evidence of lawful inspection under this section unless similar privileges are granted to vessels of the United States under the laws of the country to which the vessel belongs.

REGULATIONS GOVERNING INSPECTION

SEC. 1813. [22 U.S.C. 3823] The Commission shall prescribe, and from time to time may amend, regulations concerning the inspection of vessels conforming as nearly as practicable to the laws and regulations governing marine inspection by the United States Coast Guard.

[TITLE II repealed by section 3546(a)(4) of Public Law 104–201 (110 Stat. 2868)]

TITLE III—GENERAL PROVISIONS

CHAPTER 1—PROCUREMENT

PROCUREMENT SYSTEM

SEC. 3101. [22 U.S.C. 3861] (a) PANAMA CANAL ACQUISITION REGULATION.—(1) The Commission shall establish by regulation a comprehensive procurement system. The regulation shall be known as the “Panama Canal Acquisition Regulation” (in this section referred to as the “Regulation”) and shall provide for the procurement of goods and services by the Commission in a manner that—

(A) applies the fundamental operating principles and procedures in the Federal Acquisition Regulation;

(B) uses efficient commercial standards of practice; and

(C) is suitable for adoption and uninterrupted use by the Republic of Panama after the Canal Transfer Date.

(2) The Regulation shall contain provisions regarding the establishment of the Panama Canal Board of Contract Appeals described in section 3102.

(b) SUPPLEMENT TO REGULATION.—The Commission shall develop a Supplement to the Regulation (in this section referred to as the “Supplement”) that identifies both the provisions of Federal law applicable to procurement of goods and services by the Commission and the provisions of Federal law waived by the Commission under subsection (c).

(c) WAIVER AUTHORITY.—(1) Subject to paragraph (2), the Commission shall determine which provisions of Federal law should not apply to procurement by the Commission and may waive those laws for purposes of the Regulation and Supplement.

(2) For purposes of paragraph (1), the Commission may not waive—

(A) section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423);

(B) the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.), other than section 10(a) of such Act (41 U.S.C. 609(a)); or

(C) civil rights, environmental, or labor laws.

(d) CONSULTATION WITH ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY.—In establishing the Regulation and developing the Supplement, the Commission shall consult with the Administrator for Federal Procurement Policy.

(e) EFFECTIVE DATE.—The Regulation and the Supplement shall take effect on the date of publication in the Federal Register, or January 1, 1999, whichever is earlier.

PANAMA CANAL BOARD OF CONTRACT APPEALS

SEC. 3102. [22 U.S.C. 3862] (a) ESTABLISHMENT.—(1) The Secretary of Defense, in consultation with the Commission, may establish a board of contract appeals, to be known as the Panama Canal Board of Contract Appeals, in accordance with section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607). Except as otherwise provided by this section, the Panama Canal Board of Contract Appeals (in this section referred to as the “Board”) shall be subject to

the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.) in the same manner as any other agency board of contract appeals established under that Act.

(2) The Board shall consist of three members. At least one member of the Board shall be licensed to practice law in the Republic of Panama. Individuals appointed to the Board shall take an oath of office, the form of which shall be prescribed by the Secretary of Defense.

(3) Compensation for members of the Board of Contract Appeals shall be established by the Commission's supervisory board. The annual compensation established for members may not exceed the rate of basic pay established for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The compensation of a member may not be reduced during the member's term of office from the level established at the time of the appointment of the member.

(b) EXCLUSIVE JURISDICTION TO DECIDE APPEALS.—Notwithstanding section 10(a)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 609(a)(1)) or any other provision of law, the Board shall have exclusive jurisdiction to decide an appeal from a decision of a contracting officer under section 8(d) of such Act (41 U.S.C. 607(d)).

(c) EXCLUSIVE JURISDICTION TO DECIDE PROTESTS.—The Board shall decide protests submitted to it under this subsection by interested parties in accordance with subchapter V of title 31, United States Code. Notwithstanding section 3556 of that title, section 1491(b) of title 28, United States Code, and any other provision of law, the Board shall have exclusive jurisdiction to decide such protests. For purposes of this subsection—

(1) except as provided in paragraph (2), each reference to the Comptroller General in sections 3551 through 3555 of title 31, United States Code, is deemed to be a reference to the Board;

(2) the reference to the Comptroller General in section 3553(d)(3)(C)(ii) of such title is deemed to be a reference to both the Board and the Comptroller General;

(3) the report required by paragraph (1) of section 3554(e) of such title shall be submitted to the Comptroller General as well as the committees listed in such paragraph;

(4) the report required by paragraph (2) of such section shall be submitted to the Comptroller General as well as Congress; and

(5) section 3556 of such title shall not apply to the Board, but nothing in this subsection shall affect the right of an interested party to file a protest with the appropriate contracting officer.

(d) PROCEDURES.—The Board shall prescribe such procedures as may be necessary for the expeditious decision of appeals and protests under subsections (b) and (c).

(e) COMMENCEMENT.—The Board shall begin to function as soon as it has been established and has prescribed procedures under subsection (d).

(f) TRANSITION.—The Board shall have jurisdiction under subsections (b) and (c) over any appeals and protests filed on or after

the date on which the Board begins to function. Any appeals and protests filed before such date shall remain before the forum in which they were filed.

(g) OTHER FUNCTIONS.—The Board may perform functions similar to those described in this section for such other matters or activities of the Commission as the Commission may determine and in accordance with regulations prescribed by the Commission.

CHAPTER 2—IMMIGRATION

SPECIAL IMMIGRANTS

SEC. 3201.⁴

CHAPTER 3—REPORTS, AMENDMENTS; REPEALS AND REDESIGNATION; EFFECTIVE DATE

REPORT

SEC. 3301. [22 U.S.C. 3871] Until the termination of the Panama Canal Treaty of 1977, the President shall report annually on the status of the exercise of the rights and responsibilities of the United States under that Treaty. Such report shall include a discussion of the following:

(1) The actions taken by the Government of the Republic of Panama with respect to the living conditions of persons who resided in the Canal Zone before the effective date of this Act and who continue to reside in those areas made available to the United States under the Agreement in Implementation of Article III of the Panama Canal Treaty.

(2) The terms, conditions, and charges for land-use licenses within the canal operating areas specified in the Agreement in Implementation of Article III of the Panama Canal Treaty.

(3) The condition of former employees (and their dependents) of the Panama Canal Company and the Canal Zone Government who reside in the Republic of Panama on or after the effective date of this Act.

EXEMPTION FROM METRIC CONVERSION ACT OF 1975

SEC. 3302. [22 U.S.C. 3873] The Commission is exempt from the provisions of the Metric Conversion Act of 1975 (15 U.S.C. 205a et seq.).

REPEALS AND REDESIGNATION

SEC. 3303.⁵

EFFECTIVE DATE

SEC. 3304. [22 U.S.C. 3601 nt] Except as provided in sections 1231, 1232, 1241, 1242, 1261, 1605, 2203, 2402, 3101, and 3201 of this Act, the preceding provisions of this Act shall take effect on the date on which the Panama Canal Treaty of 1977 enters into force.

⁴ Section 3201 amended several sections of the Immigration and Nationality Act.

⁵ Section 3303 repealed or redesignated several provisions of law to conform with this Act.