

the fiscal year ending September 30, 2004, and for other purposes, had come to no resolution thereon.

LIMITATION ON AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 2004

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 2660 in the Committee of the Whole pursuant to House Resolution 312, no amendment to the bill may be offered except:

Pro forma amendments offered by the chairman or ranking minority member of the Committee on Appropriations, the majority leader or the minority leader or their designees for the purpose of debate; amendments printed in the CONGRESSIONAL RECORD and numbered 3, 4, 5, and 8, each of which shall be debatable for 10 minutes; the amendment printed in the CONGRESSIONAL RECORD and numbered 6, which shall be debatable for 20 minutes; an amendment by Mr. OBEY regarding overtime regulations, which shall be debatable for 30 minutes; an amendment by Mr. OBEY regarding SCHIP, which shall be debatable for 10 minutes; an amendment in the nature of a substitute by Mr. OBEY, which shall be debatable for 10 minutes; an amendment by Mr. TANCREDO regarding school safety, which shall be debatable for 10 minutes; an amendment by Mr. ALLEN regarding title I of the Elementary and Secondary Education Act, which shall be debatable for 30 minutes; and an amendment by Mr. TOOMEY regarding National Institutes of Health grants, which shall be debatable for 20 minutes.

Each such amendment may be offered only by the Member designated in this request, or a designee, or the Member who caused it to be printed, or a designee; shall be considered as read; shall not be subject to amendment; and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. Each amendment shall be debatable only for the time specified equally divided and controlled by the proponent and an opponent. All points of order against each of the amendments shall be considered as reserved pending completion of debate thereon; and each of the amendments may be withdrawn by its proponent after debate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. OBEY. Mr. Speaker, reserving the right to object, I would simply like the assurances of the distinguished gentleman from Ohio that with respect to the amendments offered by the gentleman from Indiana (Mr. CHOCOLA) and the gentleman from Pennsylvania (Mr. TOOMEY), that time would be yielded to the minority side as well.

Mr. YOUNG of Florida. Mr. Speaker, if the gentleman would yield, I think the unanimous consent indicates that it would be equally divided.

Mr. OBEY. No. That is a different question. I just want to make certain that of the committee time in opposition to those two amendments, that the minority will be yielded some of that time.

Mr. YOUNG of Florida. Mr. Speaker, I would advise the gentleman there is no problem with that.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The SPEAKER pro tempore. Pursuant to House Resolution 312 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2660.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2660) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes, with Mr. LATOURETTE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, all time for general debate had expired.

Pursuant to the order of the House of today, no amendment to the bill may be offered except:

Pro forma amendments offered by the chairman or the ranking member of the Committee on Appropriations, the majority leader or the minority leader, or their designees for the purpose of debate; amendments printed in the CONGRESSIONAL RECORD numbered 3, 4, 5 and 8, each of which shall be debatable for 10 minutes; the amendment printed in the CONGRESSIONAL RECORD numbered 6, which shall be debatable for 20 minutes; an amendment by the gentleman from Wisconsin (Mr. OBEY) regarding overtime regulations, which shall be debatable for 30 minutes; an amendment by the gentleman from Wisconsin (Mr. OBEY) regarding SCHIP, which shall be debatable for 10 minutes; an amendment in the nature of a substitute by the gentleman from Wisconsin (Mr. OBEY), which shall be debatable for 10 minutes; an amendment by the gentleman from Colorado (Mr. TANCREDO) regarding school safety, which shall be debatable for 10 minutes; an amendment by the gentleman

from Maine (Mr. ALLEN) regarding title I of the Elementary and Secondary Education Act, which shall be debatable for 30 minutes; and an amendment by the gentleman from Pennsylvania (Mr. TOOMEY) regarding National Institutes of Health grants, which shall be debatable for 20 minutes.

Each such amendment may be offered only by the Member designated in the request, or a designee, or the Member who caused it to be printed, or a designee; shall be considered as read; shall not be subject to amendment; and shall not be subject to a demand for a division of the question. Each amendment shall be debatable only for the time specified equally divided and controlled by the proponent and an opponent. All points of order against each of the amendments shall be considered as reserved pending completion of debate thereon; and each of the amendments may be withdrawn by its proponent after debate thereon.

The Clerk will read.

The Clerk read as follows:

H.R. 2660

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

Mr. REGULA. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from Texas (Mr. BONILLA).

Mr. BONILLA. Mr. Chairman, I thank the chairman for yielding. I would like to take this opportunity to engage in a colloquy with my good friend from Ohio, but first I would like to compliment the gentleman from Ohio (Chairman REGULA) for the incredible work that he has done, once again, to put this bill together. He is again, as many have heard comments from both sides of the aisle today, one of the most respected and admired leaders in this House, and I am just proud to serve with him on the Committee on Appropriations.

The chairman has been a leader and a champion of funding for community health centers for many years now, and I appreciate the time he has given me on a regular basis to talk about the funding levels that are necessary to keep this wonderful program running. The chairman knows that the \$122 million that is currently included in the bill is greatly appreciated. That would bring the fiscal year 2004 total to \$1.627 billion.

However, there is great concern that this would not be enough to sustain the services at some health care centers, and that, in some cases, they could be forced to reduce services to existing patients as costs increase around the country. My purpose is simply to engage the chairman to ask for his consideration to continue working with us

to try to increase this number to the level of \$225 million.

It is my understanding that Members of the other body are trying to work toward that goal; and if they are successful, we were hoping that we could also work in conference down the road to match that level. This would enable the program to serve 1.7 million additional patients, many of whom are uninsured. We all have examples from around the country from our congressional districts. In my case, health centers serve more than 28,000 people who would otherwise go without this care. We all have seen firsthand the good work that these great health centers are doing; and around the country, hundreds of thousands of Americans who would have no place else to turn are being served by these great people that work in these health centers.

I would just simply ask the chairman of the subcommittee that he would continue to work with us throughout this process to ensure that this program is provided an additional \$225 million if at all possible in the final bill.

Mr. REGULA. Mr. Chairman, I thank the gentleman for his kind words. We have agreed in the subcommittee that health centers are among our highest priorities. Since I have become Chair of the committee in 2000, we have increased this program by \$486 million, or nearly 50 percent. We recognize that in too many cases health centers provide the only access individuals have to our health care system.

Obviously, the health centers program within appropriated funds cannot solve all of the overall access problems. Nevertheless, with the continuing challenges to providing access, we will do our very best through the remainder of the process and within fiscal restraints to provide further increases for the program. I certainly will be pleased to work with the gentleman from Texas to reach that goal.

Mr. BONILLA. Mr. Chairman, if the gentleman will yield, I thank the gentleman from Ohio. Again, I just want to reiterate my gratitude to the chairman of the subcommittee for advocating this program and for his help not only on this issue, but so many others in the bill.

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. OBEY:

Strike all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal

year ending September 30, 2004, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR  
EMPLOYMENT AND TRAINING ADMINISTRATION  
TRAINING AND EMPLOYMENT SERVICES

For necessary expenses of the Workforce Investment Act of 1998, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by such Act; \$2,614,039,000 plus reimbursements, of which \$1,582,858,000 is available for obligation for the period July 1, 2004 through June 30, 2005, except that amounts determined by the Secretary of Labor to be necessary pursuant to sections 173(a)(4)(A) and 174(c) of such Act shall be available from October 1, 2003 until expended; of which \$1,000,965,000 is available for obligation for the period April 1, 2004 through June 30, 2005; and of which \$30,216,000 is available for the period July 1, 2004 through June 30, 2007 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers: *Provided*, That notwithstanding any other provision of law, of the funds provided herein under section 137(c) of such Act, \$305,993,000 shall be for activities described in section 132(a)(2)(A) of such Act and \$1,155,152,000 shall be for activities described in section 132(a)(2)(B) of such Act: *Provided further*, That, notwithstanding any other provision of law or related regulation, \$60,000,000 shall be for carrying out section 167 such Act, including \$56,000,000 for formula grants and \$3,600,000 for migrant and seasonal housing, including permanent housing, and \$400,000 for other discretionary purposes: *Provided further*, That funds appropriated under this heading in Public Law 108-7 for migrant and seasonal farmworkers housing shall be made available only under the terms and conditions in effect June 30, 2002, and shall include funding for permanent housing: *Provided further*, That notwithstanding the transfer limitation under section 133(b)(4) of such Act, up to 30 percent of such funds may be transferred by a local board if approved by the Governor: *Provided further*, That funds provided to carry out section 171(d) of such Act may be used for demonstration projects that provide assistance to new entrants in the workforce and incumbent workers: *Provided further*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further*, That notwithstanding any other provision of law, funds awarded under a grant issued by the Department of Labor pursuant to section 173 of such Act on June 30, 2001, to the San Diego Workforce Partnership may be used to provide services to spouses of military personnel.

For necessary expenses of the Workforce Investment Act of 1998, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by such Act; \$2,463,000,000 plus reimbursements, of which \$2,363,000,000 is available for obligation for the period October 1, 2004 through June 30, 2005, and of which \$100,000,000 is available for the period October 1, 2004 through June 30, 2007, for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER  
AMERICANS

To carry out title V of the Older Americans Act of 1965, as amended, \$440,200,000.

FEDERAL UNEMPLOYMENT BENEFITS AND  
ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments

and allowances under part I; and for training, allowances for job search and relocation, and related State administrative expenses under part II, subchapters B and D, chapter 2, title II of the Trade Act of 1974, as amended (including the benefits and services described under sections 123(c)(2) and 151(b) and (c) of the Trade Adjustment Assistance Reform Act of 2002 (Public Law 107-210)), \$1,338,200,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND  
EMPLOYMENT SERVICE OPERATIONS

For authorized administrative expenses, \$142,520,000, together with not to exceed \$3,472,861,000 (including not to exceed \$1,228,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund including the cost of administering section 51 of the Internal Revenue Code of 1986, as amended, section 7(d) of the Wagner-Peyser Act, as amended, the Trade Act of 1974, as amended, the Immigration Act of 1990, and the Immigration and Nationality Act, as amended, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 2004, except that funds used for automation acquisitions shall be available for obligation by the States through September 30, 2006; of which \$142,520,000, together with not to exceed \$768,257,000 of the amount which may be expended from said trust fund, shall be available for obligation for the period July 1, 2004 through June 30, 2005, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail authorized under 39 U.S.C. 3202(a)(1)(E) made available to States in lieu of allotments for such purpose: *Provided*, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 2004 is projected by the Department of Labor to exceed 3,227,000, an additional \$28,600,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: *Provided further*, That funds appropriated in this Act which are used to establish a national one-stop career center system, or which are used to support the national activities of the Federal-State unemployment insurance programs, may be obligated in contracts, grants or agreements with non-State entities: *Provided further*, That funds appropriated under this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A-87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND  
AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as

authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 2005, \$467,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 2004, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

#### PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, \$115,824,000, including \$2,393,000 to administer welfare-to-work grants, together with not to exceed \$56,503,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

#### EMPLOYEE BENEFITS SECURITY ADMINISTRATION

##### SALARIES AND EXPENSES

For necessary expenses for the Pension and Welfare Benefits Administration, \$128,605,000.

#### PENSION BENEFIT GUARANTY CORPORATION PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 2004, for such Corporation: *Provided*, That none of the funds available to the Corporation for fiscal year 2004 shall be available for obligations for administrative expenses in excess of \$228,772,000: *Provided further*, That obligations in excess of such amount may be incurred after approval by the Office of Management and Budget and the Committees on Appropriations of the House and the Senate.

#### EMPLOYMENT STANDARDS ADMINISTRATION SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, \$395,697,000, together with \$2,056,000 which may be expended from the Special Fund in accordance with sections 39(c), 44(d) and 44(j) of the Longshore and Harbor Workers' Compensation Act: *Provided*, That \$1,250,000 shall be for the development of an alternative system for the electronic submission of reports required to be filed under the Labor-Management Reporting and Disclosure Act of 1959, as amended, and for a computer database of the information for each submission by whatever means, that is indexed and easily searchable by the public via the Internet: *Provided further*, That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the Department of Labor, all sums of money ordered to be paid to the Secretary of Labor, in accordance with the terms of the Consent Judgment in Civil Action No. 91-0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): *Provided further*, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for proc-

essing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

#### SPECIAL BENEFITS

##### (INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the heading "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 percent of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, \$163,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That amounts appropriated may be used under section 8104 of title 5, United States Code, by the Secretary of Labor to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements unobligated on September 30, 2002, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further*, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary determines to be the cost of administration for employees of such fair share entities through September 30, 2004: *Provided further*, That of those funds transferred to this account from the fair share entities to pay the cost of administration of the Federal Employees' Compensation Act, \$39,315,000 shall be made available to the Secretary as follows: (1) for enhancement and maintenance of the automated data processing systems and telecommunications systems, \$11,618,000; (2) for automated workload processing operations, including document imaging, centralized mail intake, and medical bill processing, \$14,496,000; (3) for periodic roll management and medical review, \$13,210,000; and (4) the remaining funds shall be paid into the Treasury as miscellaneous receipts: *Provided further*, That the Secretary may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or 33 U.S.C. 901 et seq., provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

#### SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, as amended by Public Law 107-275 (the "Act"), \$300,000,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Act, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Act for the first quarter of fiscal year 2005, \$88,000,000, to remain available until expended.

ADMINISTRATIVE EXPENSES, ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION FUND

##### (INCLUDING TRANSFER OF FUNDS)

For necessary expenses to administer the Energy Employees Occupational Illness Compensation Act, \$55,074,000, to remain available until expended: *Provided*, That the Secretary of Labor is authorized to transfer to any executive agency with authority under the Energy Employees Occupational Illness Compensation Act, including within the Department of Labor, such sums as may be necessary in fiscal year 2004 to carry out those authorities: *Provided further*, That the Secretary may require that any person filing a claim for benefits under the Act provide as part of such claim, such identifying information (including Social Security account number) as may be prescribed.

#### BLACK LUNG DISABILITY TRUST FUND

##### (INCLUDING TRANSFER OF FUNDS)

Beginning in fiscal year 2004 and thereafter, such sums as may be necessary from the Black Lung Disability Trust Fund, to remain available until expended, for payment of all benefits authorized by section 9501(d)(1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended; and interest on advances, as authorized by section 9501(c)(2) of that Act. In addition, the following amounts shall be available from the Fund for fiscal year 2004 for expenses of operation and administration of the Black Lung Benefits program, as authorized by section 9501(d)(5): \$32,004,000 for transfer to the Employment Standards Administration, "Salaries and Expenses"; \$23,401,000 for transfer to Departmental Management, "Salaries and Expenses"; \$338,000 for transfer to Departmental Management, "Office of Inspector General"; and \$356,000 for payments into miscellaneous receipts for the expenses of the Department of the Treasury.

#### OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

##### SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, \$462,356,000, including not to exceed \$91,747,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act (the "Act"), which grants shall be no less than 50 percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Act; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to \$750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: *Provided*, That, notwithstanding 31 U.S.C. 3302, the Secretary of Labor is authorized, during the fiscal year ending September 30, 2004, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Act which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: *Provided further*, That no funds appropriated under this

paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Act with respect to any employer of 10 or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

*Provided further*, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: *Provided further*, That not less than \$3,200,000 shall be used to extend funding for the Institutional Competency Building training grants which commenced in September 2000, for program activities for the period of September 30, 2004 to September 30, 2005, provided that a grantee has demonstrated satisfactory performance.

#### MINE SAFETY AND HEALTH ADMINISTRATION SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, \$276,826,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; including up to \$1,000,000 for mine rescue and recovery activities, which shall be available only to the extent that fiscal year 2004 obligations for these activities exceed \$1,000,000; in addition, not to exceed \$750,000 may be collected by the National Mine Health and Safety Academy for room, board, tuition, and the sale of training materials, otherwise authorized by law to be collected, to be available for mine safety and health education and training activities, notwithstanding 31 U.S.C. 3302; and, in addition, the Mine Safety and Health Administration may retain up to \$1,000,000 from fees collected for the approval and certification of equipment, materials, and explosives for use in mines, and may utilize such sums for such activities; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety asso-

ciations; and any funds available to the department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster.

#### BUREAU OF LABOR STATISTICS SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, \$442,547,000, together with not to exceed \$75,110,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund; and \$2,570,000 which shall be available for obligation for the period July 1, 2004 through September 30, 2004, for Occupational Employment Statistics, and \$5,400,000 to be used to fund the mass layoff statistics program under section 15 of the Wagner-Peyser Act (29 U.S.C. 491-2).

#### OFFICE OF DISABILITY EMPLOYMENT POLICY SALARIES AND EXPENSES

For necessary expenses for the Office of Disability Employment Policy to provide leadership, develop policy and initiatives, and award grants furthering the objective of eliminating barriers to the training and employment of people with disabilities, \$47,333,000.

#### DEPARTMENTAL MANAGEMENT SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including the management or operation, through contracts, grants or other arrangements of Departmental activities conducted by or through the Bureau of International Labor Affairs, including bilateral and multilateral technical assistance and other international labor activities, of which the funds designated to carry out bilateral assistance under the international child labor initiative shall be available for obligation through September 30, 2005, and \$48,565,000, for the acquisition of Departmental information technology, architecture, infrastructure, equipment, software and related needs which will be allocated by the Department's Chief Information Officer in accordance with the Department's capital investment management process to assure a sound investment strategy; \$387,801,000; together with not to exceed \$317,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund: *Provided*, That no funds made available by this Act may be used by the Solicitor of Labor to participate in a review in any United States court of appeals of any decision made by the Benefits Review Board under section 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921) where such participation is precluded by the decision of the United States Supreme Court in *Director, Office of Workers' Compensation Programs v. Newport News Shipbuilding*, 115 S. Ct. 1278 (1995), notwithstanding any provisions to the contrary contained in Rule 15 of the Federal Rules of Appellate Procedure: *Provided further*, That no funds made available by this Act may be used by the Secretary of Labor to review a decision under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) that has been appealed and that has been pending before the Benefits Review Board for more than 12 months: *Provided further*, That any such decision pending a review by the Benefits Review Board for more than 1 year shall be considered affirmed by the Benefits Review Board on the 1-year anniversary of the filing of the appeal, and shall be considered the final order of the

Board for purposes of obtaining a review in the United States courts of appeals: *Provided further*, That these provisions shall not be applicable to the review or appeal of any decision issued under the Black Lung Benefits Act (30 U.S.C. 901 et seq.).

#### VETERANS EMPLOYMENT AND TRAINING

Not to exceed \$193,443,000 may be derived from the Employment Security Administration Account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100-4110A, 4212, 4214, and 4321-4327, and Public Law 103-353, and which shall be available for obligation by the States through December 31, 2004, of which \$2,000,000 is for the National Veterans' Employment and Training Services Institute. To carry out the Homeless Veterans Reintegration Programs (38 U.S.C. 2021) and the Veterans Workforce Investment Programs (29 U.S.C. 2913), \$26,550,000, of which \$7,550,000 shall be available for obligation for the period July 1, 2004 through June 30, 2005.

#### OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$57,000,000, together with not to exceed \$5,899,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

#### WORKING CAPITAL FUND

For the acquisition of a new core accounting system for the Department of Labor, including hardware and software infrastructure and the costs associated with implementation thereof, \$18,000,000.

#### GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title for the Job Corps shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level II.

#### (TRANSFER OF FUNDS)

SEC. 102. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 103. In accordance with Executive Order No. 13126, none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended for the procurement of goods mined, produced, manufactured, or harvested or services rendered, whole or in part, by forced or indentured child labor in industries and host countries already identified by the United States Department of Labor prior to enactment of this Act.

This title may be cited as the "Department of Labor Appropriations Act, 2004".

#### TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### HEALTH RESOURCES AND SERVICES ADMINISTRATION

##### HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, IV, VII, VIII, X, XII, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V, and sections 1128E, 711, and 1820 of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, the Native Hawaiian Health Care Act of 1988, as amended, the Cardiac Arrest Survival Act of

2000, and the Poison Control Center Enhancement and Awareness Act, \$6,639,413,000, of which \$39,740,000 from general revenues, notwithstanding section 1820(j) of the Social Security Act, shall be available for carrying out the Medicare rural hospital flexibility grants program under section 1820 of such Act: *Provided*, That of the funds made available under this heading, \$248,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: *Provided further*, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: *Provided further*, That fees collected for the full disclosure of information under the "Health Care Fraud and Abuse Data Collection Program", authorized by section 1128E(d)(2) of the Social Security Act, shall be sufficient to recover the full costs of operating the program, and shall remain available until expended to carry out that Act: *Provided further*, That no more than \$45,000,000 is available for carrying out the provisions of Public Law 104-73: *Provided further*, That of the funds made available under this heading, \$273,350,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: *Provided further*, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: *Provided further*, That \$785,759,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act: *Provided further*, That, notwithstanding section 502(a)(1) of the Social Security Act, not to exceed \$117,831,000 is available for carrying out special projects of regional and national significance pursuant to section 501(a)(2) of such Act: *Provided further*, That \$65,000,000 is available for special projects of regional and national significance under section 501(a)(2) of the Social Security Act, which shall not be counted toward compliance with the allocation required in section 502(a)(1) of such Act, and which shall be used only for making competitive grants to provide abstinence education (as defined in section 510(b)(2) of such Act) to adolescents and for evaluations (including longitudinal evaluations) of activities under the grants and for Federal costs of administering the grants: *Provided further*, That grants under the immediately preceding proviso shall be made only to public and private entities which agree that, with respect to an adolescent to whom the entities provide abstinence education under such grant, the entities will not provide to that adolescent any other education regarding sexual conduct, except that, in the case of an entity expressly required by law to provide health information or services the adolescent shall not be precluded from seeking health information or services from the entity in a different setting than the setting in which the abstinence education was provided: *Provided further*, That the funds expended for such evaluations may not exceed 3.5 percent of such amount.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM ACCOUNT

Such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service

Act, as amended. For administrative expenses to carry out the guaranteed loan program, including section 709 of the Public Health Service Act, \$3,389,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed \$3,472,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, XIX, XXI, and XXVI of the Public Health Service Act, sections 101, 102, 103, 201, 202, 203, 301, and 501 of the Federal Mine Safety and Health Act of 1977, sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970, title IV of the Immigration and Nationality Act, and section 501 of the Refugee Education Assistance Act of 1980; including purchase and insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, \$4,803,927,000, of which \$206,000,000 shall remain available until expended for equipment, and construction and renovation of facilities, and of which \$293,763,000 for international HIV/AIDS shall remain available until September 30, 2005, including not less than \$150,000,000, to remain available until expended, for the "International Mother and Child HIV Prevention Initiative", and in addition, such sums as may be derived from authorized user fees, which shall be credited to this account: *Provided*, That in addition to amounts provided herein, \$13,226,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the National Center for Health Statistics surveys: *Provided further*, That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used, in whole or in part, to advocate or promote gun control: *Provided further*, That the Director may redirect the total amount made available under authority of Public Law 101-502, section 3, dated November 3, 1990, to activities the Director may so designate: *Provided further*, That the Congress is to be notified promptly of any such transfer: *Provided further*, That not to exceed \$17,500,000 may be available for making grants under section 1509 of the Public Health Service Act to not more than 20 States: *Provided further*, That without regard to existing statute, funds appropriated may be used to proceed, at the discretion of the Centers for Disease Control and Prevention, with property acquisition, including a long-term ground lease for construction on non-Federal land, to support the construction of a replacement laboratory in the Fort Collins, Colorado area: *Provided further*, That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: *Provided further*, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232-18.

NATIONAL INSTITUTES OF HEALTH NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, \$4,816,568,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, \$2,930,136,000.

NATIONAL INSTITUTE OF DENTAL AND CRANIOFACIAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, \$389,780,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney disease, \$1,701,959,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, \$1,527,588,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

(INCLUDING TRANSFER OF FUNDS)

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, \$4,340,707,000: *Provided*, That \$100,000,000 may be made available to International Assistance Programs, "Global Fund to Fight HIV/AIDS, Malaria, and Tuberculosis", to remain available until expended.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, \$1,937,179,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, \$1,264,806,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, \$664,061,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, \$644,229,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, \$1,042,110,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis and musculoskeletal and skin diseases, \$509,879,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, \$388,465,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, \$136,959,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, \$436,364,000.

## NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, \$1,008,676,000.

## NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, \$1,406,489,000.

## NATIONAL HUMAN GENOME RESEARCH INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, \$487,698,000.

## NATIONAL INSTITUTE OF BIOMEDICAL IMAGING AND BIOENGINEERING

For carrying out section 301 and title IV of the Public Health Service Act with respect to biomedical imaging and bioengineering research, \$291,866,000.

## NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, \$1,176,402,000: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants: *Provided further*, That \$123,154,000 shall be for extramural facilities construction grants.

## NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to complementary and alternative medicine, \$118,944,000.

## NATIONAL CENTER ON MINORITY HEALTH AND HEALTH DISPARITIES

For carrying out section 301 and title IV of the Public Health Service Act with respect to minority health and health disparities research, \$194,781,000.

## JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, \$66,563,000.

## NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, \$323,390,000, of which \$4,000,000 shall be available until expended for improvement of information systems: *Provided*, That in fiscal year 2004, the Library may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health.

## OFFICE OF THE DIRECTOR

## (INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, \$453,743,000: *Provided*, That funding shall be available for the purchase of not to exceed 29 passenger motor vehicles for replacement only: *Provided further*, That the Director may direct up to 1 percent of the total amount made available in this or any other Act to all National Institutes of Health appropriations to activities the Director may so designate: *Provided further*, That no such appropriation shall be decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer: *Provided further*, That the National Institutes of Health is authorized to collect third party payments for the cost of clinical services that are incurred in National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: *Provided further*, That all funds credited to the National Institutes of Health Management Fund shall remain available for 1 fiscal year after the fiscal

year in which they are deposited: *Provided further*, That up to \$500,000 shall be available to carry out section 499 of the Public Health Service Act.

## BUILDINGS AND FACILITIES

## (INCLUDING TRANSFER OF FUNDS)

For the study of, construction of, renovation of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, \$216,300,000, to remain available until expended.

## SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

## SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act with respect to substance abuse and mental health services, the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and section 301 of the Public Health Service Act with respect to program management, \$3,375,400,000: *Provided*, That in addition to amounts provided herein, \$16,000,000 shall be made available from amounts available under section 241 of the Public Health Service Act to carry out national surveys on drug abuse.

## AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

## HEALTHCARE RESEARCH AND QUALITY

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 927(c) of the Public Health Service Act shall not exceed \$303,695,000.

## CENTERS FOR MEDICARE AND MEDICAID SERVICES

## GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, \$130,892,197,000, to remain available until expended.

For making, after May 31, 2004, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 2004 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or in the case of section 1928 on behalf of States under title XIX of the Social Security Act for the first quarter of fiscal year 2005, \$58,416,275,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

## PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under section 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97-248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, \$95,084,100,000.

## PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, XIX, and XXI of the Social Security Act, titles XIII and XXVII of the Public Health Service Act, and the Clinical Laboratory Improvement Amendments of 1988, not to exceed \$2,698,025,000, to be

transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; together with all funds collected in accordance with section 353 of the Public Health Service Act and section 1857(e)(2) of the Social Security Act, and such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended, and together with administrative fees collected relative to Medicare overpayment recovery activities, which shall remain available until expended: *Provided*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act shall be credited to and available for carrying out the purposes of this appropriation: *Provided further*, That \$65,000,000, to remain available until September 30, 2005, is for contract costs for the CMS Systems Revitalization Plan: *Provided further*, That \$56,991,000, to remain available until September 30, 2005, is for contract costs for the Healthcare Integrated General Ledger Accounting System: *Provided further*, That not less than \$129,000,000 shall be for processing Medicare appeals: *Provided further*, That the Secretary of Health and Human Services is directed to collect fees in fiscal year 2004 from Medicare+Choice organizations pursuant to section 1857(e)(2) of the Social Security Act and from eligible organizations with risk-sharing contracts under section 1876 of that Act pursuant to section 1876(k)(4)(D) of that Act.

## HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 2004, no commitments for direct loans or loan guarantees shall be made.

## ADMINISTRATION FOR CHILDREN AND FAMILIES

## PAYMENTS TO STATES FOR CHILD SUPPORT ENFORCEMENT AND FAMILY SUPPORT PROGRAMS

For making payments to States or other non-Federal entities under titles I, IV-D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), \$3,292,970,000, to remain available until expended; and for such purposes for the first quarter of fiscal year 2005, \$1,200,000,000, to remain available until expended.

For making payments to each State for carrying out the program of Aid to Families with Dependent Children under title IV-A of the Social Security Act before the effective date of the program of Temporary Assistance for Needy Families (TANF) with respect to such State, such sums as may be necessary: *Provided*, That the sum of the amounts available to a State with respect to expenditures under such title IV-A in fiscal year 1997 under this appropriation and under such title IV-A as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not exceed the limitations under section 116(b) of such Act.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

## LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, \$2,250,000,000.

## REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), and for carrying out section 5 of the Torture Victims Relief Act of 1998 (Public Law 105-320), \$461,853,000, of which up to \$10,000,000 is available to carry out the Trafficking Victims Protection Act of 2000 (Public Law 106-386, div. A): *Provided*, That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act for fiscal year 2004 shall be available for the costs of assistance provided and other activities through September 30, 2006.

## PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), \$2,200,000,000 shall be used to supplement, not supplant State general revenue funds for child care assistance for low-income families: *Provided*, That \$19,120,000 shall be available for child care resource and referral and school-aged child care activities, of which \$1,000,000 shall be for the Child Care Aware toll free hotline: *Provided further*, That, in addition to the amounts required to be reserved by the States under section 658G, \$272,672,000 shall be reserved by the States for activities authorized under section 658G, of which \$100,000,000 shall be for activities that improve the quality of infant and toddler care: *Provided further*, That \$9,864,000 shall be for use by the Secretary for child care research, demonstration, and evaluation activities.

## SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, \$1,700,000,000: *Provided*, That notwithstanding subparagraph (B) of section 404(d)(2) of such Act, the applicable percent specified under such subparagraph for a State to carry out State programs pursuant to title XX of such Act shall be 10 percent.

## DISABLED VOTER SERVICES

For necessary expenses to carry out programs as authorized by the Help America Vote Act of 2002, \$15,000,000, of which \$13,000,000 shall be for payments to States to promote disabled voter access, and of which \$2,000,000 shall be for payments to States for disabled voters protection and advocacy systems.

## CHILDREN AND FAMILIES SERVICES PROGRAMS

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, sections 310 and 316 of the Family Violence Prevention and Services Act, as amended, the Native American Programs Act of 1974, title II of Public Law 95-266 (adoption opportunities), the Adoption and Safe Families Act of 1997 (Public Law 105-89), sections 1201 and 1211 of the Children's Health Act of 2000, the Abandoned Infants Assistance Act of 1988, the Early Learning Opportunities Act, part B(1) of title IV and sections 413, 429A, 1110, and 1115 of the Social Security Act, and sections 40155, 40211, and 40241 of Public Law 103-322; for making payments under the Community Services Block Grant Act, sections 439(h), 473A, and 477(i) of the Social Security Act, and title IV of Public Law 105-285, and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Re-

conciliation Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, section 5 of the Torture Victims Relief Act of 1998 (Public Law 105-320), sections 40155, 40211, and 40241 of Public Law 103-322, and section 126 and titles IV and V of Public Law 100-485, \$8,742,968,000, of which \$43,000,000, to remain available until September 30, 2005, shall be for grants to States for adoption incentive payments, as authorized by section 473A of title IV of the Social Security Act (42 U.S.C. 670-679) and may be made for adoptions completed in fiscal years 2001 and 2002; of which \$6,815,570,000 shall be for making payments under the Head Start Act, of which \$1,400,000,000 shall become available October 1, 2004 and remain available through September 30, 2005; and of which \$735,860,000 shall be for making payments under the Community Services Block Grant Act: *Provided*, That not less than \$7,250,000 shall be for section 680(3)(B) of the Community Services Block Grant Act, as amended: *Provided further*, That in addition to amounts provided herein, \$6,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the provisions of section 1110 of the Social Security Act: *Provided further*, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes: *Provided further*, That the Secretary shall establish procedures regarding the disposition of intangible property which permits grant funds, or intangible assets acquired with funds authorized under section 680 of the Community Services Block Grant Act, as amended, to become the sole property of such grantees after a period of not more than 12 years after the end of the grant for purposes and uses consistent with the original grant: *Provided further*, That funds appropriated for section 680(a)(2) of the Community Services Block Grant Act, as amended, shall be available for financing construction and rehabilitation and loans or investments in private business enterprises owned by community development corporations: *Provided further*, That \$88,043,000 shall be for activities authorized by the Runaway and Homeless Youth Act, notwithstanding the allocation requirements of section 388(a) of such Act, of which \$26,413,000 is for the transitional living program: *Provided further*, That \$35,000,000 is for a compassion capital fund to provide grants to charitable organizations to emulate model social service programs and to encourage research on the best practices of social service organizations.

## PROMOTING SAFE AND STABLE FAMILIES

For carrying out section 436 of the Social Security Act, \$305,000,000 and for section 437, \$100,000,000.

## PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities under title IV-E of the Social Security Act, \$5,068,300,000.

For making payments to States or other non-Federal entities under title IV-E of the Act, for the first quarter of fiscal year 2005, \$1,767,700,000.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under section 474 of title IV-E, for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

## ADMINISTRATION ON AGING

## AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, and section 398 of the Public Health Service Act, \$1,449,495,000, of which \$5,000,000 shall be available for activities regarding medication management, screening, and education to prevent incorrect medication and adverse drug reactions; and of which \$2,842,000 shall remain available until September 30, 2006, for the White House Conference on Aging.

## OFFICE OF THE SECRETARY

## GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six sedans, and for carrying out titles III, XVII, and XX of the Public Health Service Act, and the United States-Mexico Border Health Commission Act, \$343,284,000, together with \$5,813,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund: *Provided*, That of the funds made available under this heading for carrying out title XX of the Public Health Service Act, \$11,885,000 shall be for activities specified under section 2004(b)(2), of which \$10,157,000 shall be for prevention service demonstration grants under section 510(b)(2) of title V of the Social Security Act, as amended, without application of the limitation of section 2010(c) of said title XX: *Provided further*, That of this amount, \$49,675,000 is for minority AIDS prevention and treatment activities; \$18,400,000 shall be for an Information Technology Security and Innovation Fund for Department-wide activities involving cybersecurity, information technology security, and related innovation projects; and \$5,000,000 is to assist Afghanistan in the development of maternal and child health clinics, consistent with section 103(a)(4)(H) of the Afghanistan Freedom Support Act of 2002.

## OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$39,497,000: *Provided*, That, of such amount, necessary sums are available for providing protective services to the Secretary and investigating non-payment of child support cases for which non-payment is a Federal offense under 18 U.S.C. 228.

## OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, \$30,936,000, together with not to exceed \$3,314,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

## POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act and title III of the Public Health Service Act, \$2,483,000: *Provided*, That in addition to amounts provided herein, \$18,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out national health or human services research and evaluation activities: *Provided further*, That the expenditure of any funds available under section 241 of the Public Health Service Act are subject to the requirements of section 205 of this Act.

## RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers

as authorized by law, for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan, for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55 and 56), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year. The following are definitions for the medical benefits of the Public Health Service Commissioned Officers that apply to 10 U.S.C. chapter 56, section 1116(c). The source of funds for the monthly accrual payments into the Department of Defense Medicare-Eligible Retiree Health Care Fund shall be the Retirement Pay and Medical Benefits for Commissioned Officers account. For purposes of this Act, the term "pay of members" shall be construed to be synonymous with retirement payments to United States Public Health Service officers who are retired for age, disability, or length of service; payments to survivors of deceased officers; medical care to active duty and retired members and dependents and beneficiaries; and for payments to the Social Security Administration for military service credits; all of which payments are provided for by the Retirement Pay and Medical Benefits for Commissioned Officers account.

PUBLIC HEALTH AND SOCIAL SERVICES  
EMERGENCY FUND

For expenses necessary to support activities related to countering potential biological, disease and chemical threats to civilian populations, \$1,896,846,000: *Provided*, That this amount is distributed as follows: Centers for Disease Control and Prevention, \$1,286,156,000; Office of the Secretary, \$64,820,000; and Health Resources and Services Administration; \$545,870,000; *Provided further*, That at the discretion of the Secretary, these amounts may be transferred between categories subject to normal reprogramming procedures: *Provided further*, That employees of the Centers for Disease Control and Prevention or the Public Health Service, both civilian and Commissioned Officers, detailed to States, municipalities or other organizations under authority of section 214 of the Public Health Service Act for purposes related to homeland security, shall be treated as non-Federal employees for reporting purposes only and shall not be included within any personnel ceiling applicable to the Agency, Service, or the Department of Health and Human Services during the period of detail or assignment.

In addition, for activities to ensure a year-round influenza vaccine production capacity and the development and implementation of rapidly expandable influenza vaccine production technologies, \$100,000,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed \$50,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated under this Act may be used to implement section 399F(b) of the Public Health Service Act or section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103-43.

SEC. 204. None of the funds appropriated in this Act for the National Institutes of

Health, the Agency for Healthcare Research and Quality, and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level I.

SEC. 205. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in the Department of Health and Human Services, prior to the Secretary's preparation and submission of a report to the Committee on Appropriations of the Senate and of the House detailing the planned uses of such funds.

SEC. 206. Notwithstanding section 241(a) of the Public Health Service Act, such portion as the Secretary shall determine, but not more than 1.25 percent, of any amounts appropriated for programs authorized under said Act shall be made available for the evaluation (directly, or by grants or contracts) of the implementation and effectiveness of such programs.

(TRANSFER OF FUNDS)

SEC. 207. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Health and Human Services in this or any other Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That an appropriation may be increased by up to an additional 2 percent subject to approval by the House and Senate Committees on Appropriations: *Provided further*, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 208. The Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, may transfer up to 3 percent among institutes, centers, and divisions from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: *Provided*, That the Congress is promptly notified of the transfer.

SEC. 209. Of the amounts made available in this Act for the National Institutes of Health, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of the National Institutes of Health and the Director of the Office of AIDS Research, shall be made available to the "Office of AIDS Research" account. The Director of the Office of AIDS Research shall transfer from such account amounts necessary to carry out section 2353(d)(3) of the Public Health Service Act.

SEC. 210. None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.

SEC. 211. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare+Choice program if the Secretary denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: *Provided*, That the Secretary shall make appropriate pro-

spective adjustments to the capitation payment to such an entity (based on an actuarially sound estimate of the expected costs of providing the service to such entity's enrollees): *Provided further*, That nothing in this section shall be construed to change the Medicare program's coverage for such services and a Medicare+Choice organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services.

SEC. 212. Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

SEC. 213. (a) Except as provided by subsection (e) none of the funds appropriated by this Act may be used to withhold substance abuse funding from a State pursuant to section 1926 of the Public Health Service Act (42 U.S.C. 300x-26) if such State certifies to the Secretary of Health and Human Services by May 1, 2004 that the State will commit additional State funds, in accordance with subsection (b), to ensure compliance with State laws prohibiting the sale of tobacco products to individuals under 18 years of age.

(b) The amount of funds to be committed by a State under subsection (a) shall be equal to 1 percent of such State's substance abuse block grant allocation for each percentage point by which the State misses the retailer compliance rate goal established by the Secretary of Health and Human Services under section 1926 of such Act.

(c) The State is to maintain State expenditures in fiscal year 2004 for tobacco prevention programs and for compliance activities at a level that is not less than the level of such expenditures maintained by the State for fiscal year 2003, and adding to that level the additional funds for tobacco compliance activities required under subsection (a). The State is to submit a report to the Secretary on all fiscal year 2003 State expenditures and all fiscal year 2004 obligations for tobacco prevention and compliance activities by program activity by July 31, 2004.

(d) The Secretary shall exercise discretion in enforcing the timing of the State obligation of the additional funds required by the certification described in subsection (a) as late as July 31, 2004.

(e) None of the funds appropriated by this Act may be used to withhold substance abuse funding pursuant to section 1926 from a territory that receives less than \$1,000,000.

SEC. 214. In order for the Centers for Disease Control and Prevention to carry out international health activities, including HIV/AIDS and other infectious disease, chronic and environmental disease, and other health activities abroad during fiscal year 2004, the Secretary of Health and Human Services is authorized to provide such funds by advance or reimbursement to the Secretary of State as may be necessary to pay the costs of acquisition, lease, alteration, renovation, and management of facilities outside of the United States for the use of the Department of Health and Human Services. The Department of State shall cooperate fully with the Secretary of Health and Human Services to ensure that the Department of Health and Human Services has secure, safe, functional facilities that comply with applicable regulation governing location, setback, and other facilities requirements and serve the purposes established by this Act. The Secretary of Health and Human Services is authorized, in consultation with the Secretary of State, through grant or cooperative agreement, to make available to public or nonprofit private institutions or agencies in participating foreign

countries, funds to acquire, lease, alter, or renovate facilities in those countries as necessary to conduct programs of assistance for international health activities, including activities relating to HIV/AIDS and other infectious diseases, chronic and environmental diseases, and other health activities abroad.

SEC. 215. (a) In addition to the authority provided in section 214, in order for the Centers for Disease Control and Prevention to carry out international health activities, including HIV/AIDS and other infectious disease, chronic and environmental disease, and other health activities abroad during fiscal year 2004, the Secretary of Health and Human Services may exercise authority equivalent to that available to the Secretary of State in section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)).

(b) The Secretary of Health and Human Services shall consult with the Secretary of State and relevant Chief of Mission to ensure that the authority provided in this section is exercised in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) and other applicable statutes administered by the Department of State.

SEC. 216. The Division of Federal Occupational Health may utilize personal services contracting to employ professional management/administrative and occupational health professionals.

SEC. 217. (a) CMS PROGRAM MANAGEMENT ACCOUNT.—The amount otherwise provided by this Act for “Centers for Medicare and Medicaid Services—Program Management” is hereby reduced by \$98,000,000.

(b) MEDICARE CLAIMS PROCESSING FEE.—

(1) IN GENERAL.—Notwithstanding section 1842(c)(4) of the Social Security Act, each claim submitted by an individual or entity furnishing items or services for which payment may be made under part A or part B of title XVIII of such Act is subject to a processing fee of \$2.50 if the claim—

(A) duplicates, in whole or in part, another claim submitted by the same individual or entity; or

(B) is a claim that cannot be processed and must be returned by the medicare claims processing contractor involved to the individual or entity for completion or correction.

(2) DEDUCTION AND TRANSFER.—The Secretary of Health and Human Services shall deduct any fees assessed pursuant to paragraph (1) against an individual or entity from amounts otherwise payable from a trust fund under such title to such individual or entity, and shall transfer the amount so deducted from such trust fund to the Program Management account of the Centers for Medicare & Medicaid Services.

(3) AVAILABILITY.—Fees collected under this subsection shall remain available until expended. Such fees shall be available for obligation in a fiscal year only in the amount specified in the appropriation Act for such fiscal year.

(4) WAIVER AUTHORITY.—The Secretary of Health and Human Services may provide for waiver of fees for claims described in paragraph (2) in cases of such compelling circumstances as the Secretary may determine.

(5) EXCLUSION OF FEES IN ALLOWABLE COSTS.—An entity may not include a fee assessed pursuant to this subsection as an allowable item on a cost report under the Social Security Act.

(6) EFFECTIVE DATE.—This subsection shall apply to claims referred to in paragraph (1) submitted on or after a date, specified by the Secretary of Health and Human Services, that is not later than 3 months after the date of the enactment of this Act.

SEC. 218. The amount appropriated in this Act for “Centers for Disease Control and

Prevention—Disease Control, Research, and Training” is hereby reduced by \$49,982,000, to be derived from the amounts made available for administrative and related information technology expenses: *Provided*, That the Director of the Centers for Disease Control and Prevention shall determine the allocation of the reduction among Agency activities, and shall submit to the Committees on Appropriations a report specifying the proposed allocation.

This title may be cited as the “Department of Health and Human Services Appropriations Act, 2004”.

#### TITLE III—DEPARTMENT OF EDUCATION EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965 (“ESEA”) and section 418A of the Higher Education Act of 1965, \$14,841,311,000, of which \$7,277,510,000 shall become available on July 1, 2004, and shall remain available through September 30, 2005, and of which \$7,383,301,000 shall become available on October 1, 2004, and shall remain available through September 30, 2005, for academic year 2004–2005: *Provided*, That \$7,607,282,000 shall be available for basic grants under section 1124: *Provided further*, That up to \$3,500,000 of these funds shall be available to the Secretary of Education on October 1, 2003, to obtain updated educational-agency-level census poverty data from the Bureau of the Census: *Provided further*, That \$1,365,031,000 shall be available for concentration grants under section 1124A: *Provided further*, That \$1,920,239,000 shall be available for targeted grants under section 1125: *Provided further*, That \$1,791,759,000 shall be available for education finance incentive grants under section 1125A: *Provided further*, That \$235,000,000 shall be available for comprehensive school reform grants under part F of the ESEA: *Provided further*, That from the \$9,500,000 available to carry out part E of title I, up to \$1,000,000 shall be available to the Secretary of Education to provide technical assistance to State and local educational agencies concerning part A of title I.

#### IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, \$1,403,324,000, of which \$1,192,000,000 shall be for basic support payments under section 8003(b), \$66,668,000 shall be for payments for children with disabilities under section 8003(d), \$54,708,000 shall be for construction under section 8007 and shall remain available through September 30, 2005, \$72,000,000 shall be for Federal property payments under section 8002, and \$17,948,000, to remain available until expended, shall be for facilities maintenance under section 8008.

#### SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by title II, part B of title IV, part A and subpart 6 of part D of title V, parts A and B of title VI, and parts B and C of title VII of the Elementary and Secondary Education Act of 1965 (“ESEA”); part B of title II of the Higher Education Act; the McKinney-Vento Homeless Assistance Act; and the Civil Rights Act of 1964, \$6,141,812,000, of which \$4,490,947,000 shall become available on July 1, 2004, and remain available through September 30, 2005, and of which \$1,435,000,000 shall become available on October 1, 2004, and shall remain available through September 30, 2005, for academic year 2004–2005: *Provided*, That funds made available to carry out part C of title VII of the ESEA may be used for construction: *Provided further*, That funds made available to

carry out part B of title VII of the ESEA may be used for construction, renovation and modernization of any elementary school, secondary school, or structure related to an elementary school or secondary school, run by the Department of Education of the State of Hawaii, that serves a predominantly Native Hawaiian student body: *Provided further*, That \$390,000,000 shall be for subpart 1 of part A of title VI of the ESEA: *Provided further*, That no funds appropriated under this heading may be used to carry out section 5494 of the ESEA.

#### INDIAN EDUCATION

For expenses necessary to carry out, to the extent not otherwise provided, title VII, part A of the Elementary and Secondary Education Act of 1965, \$121,573,000.

#### INNOVATION AND IMPROVEMENT

For carrying out activities authorized by part G and section 1504 of title I, parts A, C, and D of title II, and parts B, C, and D of title V of the Elementary and Secondary Education Act of 1965, \$807,959,000: *Provided*, That \$74,513,000, to become available on July 1, 2004 and remain available through September 30, 2005, for continuing and new grants to demonstrate effective approaches to comprehensive school reform shall be allocated and expended in the same manner as the funds provided under the Fund for the Improvement of Education for this purpose were allocated and expended in fiscal year 2003: *Provided further*, That up to \$1,500,000 of the funds provided under the Advanced Credentialing program may be reserved by the Secretary to conduct an evaluation of the program.

#### SAFE SCHOOLS AND CITIZENSHIP EDUCATION

For carrying out civic and physical education activities, safe and drug-free schools and communities programs, and partnerships in character education programs, authorized by subpart 3 of part C of title II, part A of title IV, and subparts 2, 3, and 10 of part D of title V of the Elementary and Secondary Education Act of 1965 (“ESEA”), \$820,068,000, of which \$138,949,000 shall become available on July 1, 2004 and remain available through September 30, 2005, and of which \$330,000,000 shall become available on October 1, 2004 and shall remain available through September 30, 2005 for the academic year 2004–2005: *Provided*, That \$468,949,000 shall be available for subpart 1 of part A of title IV and \$155,180,000 shall be available for subpart 2 of part A of title IV, of which \$4,968,000, to remain available until expended, shall be for the Project School Emergency Response to Violence program to provide education-related services to local educational agencies in which the learning environment has been disrupted due to a violent or traumatic crisis: *Provided further*, That of the amount made available for subpart 3 of part C of title II of the ESEA, up to \$12,000,000 may be used to carry out section 2345 of the ESEA and \$3,000,000 shall be used by the Center for Civic Education to implement a comprehensive program to improve public knowledge, understanding, and support of the Congress and the State legislatures.

#### ENGLISH LANGUAGE ACQUISITION

For carrying out title III, part A of the Elementary and Secondary Education Act of 1965, \$750,000,000, of which \$626,258,000 shall become available on July 1, 2004, and shall remain available through September 30, 2005.

#### SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act, \$12,249,790,000, of which \$6,890,762,000 shall become available for obligation on July 1, 2004, and shall remain available through September 30, 2005, and of which \$5,072,000,000 shall become

available on October 1, 2004, and shall remain available through September 30, 2005, for academic year 2004-2005: *Provided*, That \$11,400,000 shall be for Recording for the Blind and Dyslexic to support the development, production, and circulation of recorded educational materials: *Provided further*, That \$1,490,000 shall be for the recipient of funds provided by Public Law 105-78 under section 687(b)(2)(G) of the Act to provide information on diagnosis, intervention, and teaching strategies for children with disabilities: *Provided further*, That the amount for section 611(c) of the Act shall be equal to the amount available for that section during fiscal year 2003, increased by the amount of inflation as specified in section 611(f)(1)(B)(ii) of the Act.

#### REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Assistive Technology Act of 1998, and the Helen Keller National Center Act, \$2,999,165,000: *Provided*, That the funds provided for title I of the Assistive Technology Act of 1998 ("the AT Act") shall be allocated notwithstanding section 105(b)(1) of the AT Act.

#### SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

##### AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), \$16,500,000.

##### NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), \$53,867,000, of which \$367,000 shall be for construction and shall remain available until expended: *Provided*, That from the total amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

##### GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), \$100,600,000: *Provided*, That from the total amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

#### VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education and Family Literacy Act, and subpart 4 of part D of title V of the Elementary and Secondary Education Act of 1965 ("ESEA"), \$2,094,475,000, of which \$1,294,725,000 shall become available on July 1, 2004 and shall remain available through September 30, 2005 and of which \$791,000,000 shall become available on October 1, 2004 and shall remain available through September 30, 2005: *Provided*, That of the amount provided for Adult Education State Grants, \$70,000,000 shall be made available for integrated English literacy and civics education services to immigrants and other limited English proficient populations: *Provided further*, That of the amount reserved for integrated English literacy and civics education, notwithstanding section 211 of the Adult Education and Family Literacy Act, 65 percent shall be allocated to States based on a State's absolute need as determined by calculating each State's share of a 10-year average of the Immigration and Naturalization Service data for immigrants admitted for legal permanent residence for the 10 most recent years, and 35 percent allocated to

States that experienced growth as measured by the average of the 3 most recent years for which Immigration and Naturalization Service data for immigrants admitted for legal permanent residence are available, except that no State shall be allocated an amount less than \$60,000: *Provided further*, That of the amounts made available for the Adult Education and Family Literacy Act, \$9,438,000 shall be for national leadership activities under section 243 and \$6,517,000 shall be for the National Institute for Literacy under section 242: *Provided further*, That \$175,000,000 shall be available to support the activities authorized under subpart 4 of part D of title V of the ESEA, of which up to 5 percent shall become available October 1, 2003, for evaluation, technical assistance, school networking, peer review of applications, and program outreach activities and of which not less than 95 percent shall become available on July 1, 2004, and remain available through September 30, 2005, for grants to local educational agencies: *Provided further*, That funds made available to local educational agencies under this subpart shall be used only for activities related to establishing smaller learning communities in high schools.

#### STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3 and 4 of part A, section 428K, part C and part E of title IV of the Higher Education Act of 1965, as amended, \$14,911,432,000, which shall remain available through September 30, 2005.

The maximum Pell Grant for which a student shall be eligible during award year 2004-2005 shall be \$4,200.

#### HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, section 121 and titles II, III, IV, V, VI, and VII of the Higher Education Act of 1965 ("HEA"), as amended, section 1543 of the Higher Education Amendments of 1992, title VIII of the Higher Education Amendments of 1998, section 117 of the Carl D. Perkins Vocational and Technical Education Act, and the Mutual Educational and Cultural Exchange Act of 1961, \$1,985,991,000, of which \$2,000,000 for interest subsidies authorized by section 121 of the HEA, shall remain available until expended: *Provided*, That \$9,935,000, to remain available through September 30, 2005, shall be available to fund fellowships for academic year 2005-2006 under part A, subpart 1 of title VII of said Act, under the terms and conditions of part A, subpart 1: *Provided further*, That \$994,000 is for data collection and evaluation activities for programs under the HEA, including such activities needed to comply with the Government Performance and Results Act of 1993: *Provided further*, That notwithstanding any other provision of law, funds made available in this Act to carry out title VI of the HEA and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 may be used to support visits and study in foreign countries by individuals who are participating in advanced foreign language training and international studies in areas that are vital to United States national security and who plan to apply their language skills and knowledge of these countries in the fields of government, the professions, or international development: *Provided further*, That up to 1 percent of the funds referred to in the preceding proviso may be used for program evaluation, national outreach, and information dissemination activities: *Provided further*, That notwithstanding any other provision of law or any regulation, the Secretary of Education shall not require the use of a restricted indirect cost rate for grants issued pursuant to section 117 of the Carl D. Perkins Vocational and Applied Technology Education Act.

#### HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), \$242,770,000, of which not less than \$3,600,000 shall be for a matching endowment grant pursuant to the Howard University Endowment Act (Public Law 98-480) and shall remain available until expended.

#### COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For Federal administrative expenses authorized under section 121 of the Higher Education Act of 1965, \$774,000 to carry out activities related to existing facility loans entered into under the Higher Education Act of 1965.

#### HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING PROGRAM ACCOUNT

The aggregate principal amount of outstanding bonds insured pursuant to section 344 of title III, part D of the Higher Education Act of 1965 shall not exceed \$357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title III, part D of the Higher Education Act of 1965, as amended, \$210,000.

#### INSTITUTE OF EDUCATION SCIENCES

For carrying out activities authorized by Public Law 107-279, \$500,599,000: *Provided*, That of the amount appropriated, \$185,000,000 shall be available for obligation through September 30, 2005.

#### DEPARTMENTAL MANAGEMENT

##### PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, \$434,494,000, of which \$13,644,000, to remain available until expended, shall be for building alterations and related expenses for the relocation of Department staff to Potomac Center Plaza in Washington, D.C.

##### OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, \$91,275,000.

##### OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, \$48,137,000.

##### STUDENT AID ADMINISTRATION

For Federal administrative expenses (in addition to funds made available under section 458), to carry out part D of title I, and subparts 1, 3, and 4 of part A, and parts B, C, D and E of title IV of the Higher Education Act of 1965, as amended, \$120,010,000.

#### GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in

order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

This title may be cited as the "Department of Education Appropriations Act, 2004".

TITLE IV—RELATED AGENCIES

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, \$65,279,000, of which \$1,983,000 shall remain available until expended for construction and renovation of the physical plants at the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS,  
OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, \$352,836,000: *Provided*, That none of the funds made available to the Corporation for National and Community Service in this Act for activities authorized by section 122 of part C of title I and part E of title II of the Domestic Volunteer Service Act of 1973 shall be used to provide stipends or other monetary incentives to volunteers or volunteer leaders whose incomes exceed 125 percent of the national poverty level.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2006, \$330,000,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

Of the amounts made available to the Corporation for Public Broadcasting for fiscal year 2004 by Public Law 107-116, up to \$80,000,000 is available for grants associated with the transition of public broadcasting to

digital broadcasting, including costs related to transmission equipment and program production, development, and distribution, to be awarded as determined by the Corporation in consultation with public radio and television licensees or permittees, or their designated representatives; and up to \$20,000,000 is available pursuant to section 396(k)(10) of the Communications Act of 1934, as amended, for replacement and upgrade of the public television interconnection system: *Provided*, That section 396(k)(3) shall apply only to amounts remaining after allocations made herein.

FEDERAL MEDIATION AND CONCILIATION  
SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171-180, 182-183), including hire of passenger motor vehicles; for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. ch. 71), \$43,385,000, including \$1,500,000, to remain available through September 30, 2005, for activities authorized by the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a): *Provided*, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and other conflict resolution services and technical assistance, including those provided to foreign governments and international organizations, and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: *Provided further*, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: *Provided further*, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW  
COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), \$7,774,000.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

For carrying out the Museum and Library Services Act of 1996, \$238,126,000, to remain available until expended.

MEDICARE PAYMENT ADVISORY COMMISSION  
SALARIES AND EXPENSES

For expenses necessary to carry out section 1805 of the Social Security Act, \$9,000,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

NATIONAL COMMISSION ON LIBRARIES AND  
INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345, as amended), \$1,000,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, \$2,830,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, \$243,073,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 percent of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, \$11,421,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW  
COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), \$10,115,000.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, \$119,000,000, which shall include amounts becoming available in fiscal year 2004 pursuant to section 224(c)(1)(B) of Public Law 98-76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds \$119,000,000: *Provided*, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD  
RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, \$150,000, to remain available through September 30, 2005, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, \$101,300,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR  
GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than \$6,600,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided*,

That none of the funds made available in any other paragraph of this Act may be transferred to the Office; used to carry out any such transfer; used to provide any office space, equipment, office supplies, communications facilities or services, maintenance services, or administrative services for the Office; used to pay any salary, benefit, or award for any personnel of the Office; used to pay any other operating expense of the Office; or used to reimburse the Office for any service provided, or expense incurred, by the Office.

#### SOCIAL SECURITY ADMINISTRATION

##### PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, \$21,658,000.

##### SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, \$26,221,300,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For making benefit payments under title XVI of the Social Security Act for the first quarter of fiscal year 2005, \$12,590,000,000, to remain available until expended.

##### LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed \$15,000 for official reception and representation expenses, not more than \$8,410,000,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That not less than \$1,800,000 shall be for the Social Security Advisory Board: *Provided further*, That unobligated balances of funds provided under this paragraph at the end of fiscal year 2004 not needed for fiscal year 2004 shall remain available until expended to invest in the Social Security Administration information technology and telecommunications hardware and software infrastructure, including related equipment and non-payroll administrative expenses associated solely with this information technology and telecommunications infrastructure: *Provided further*, That reimbursement to the trust funds under this heading for expenditures for official time for employees of the Social Security Administration pursuant to section 7131 of title 5, United States Code, and for facilities or support services for labor organizations pursuant to policies, regulations, or procedures referred to in section 7135(b) of such title shall be made by the Secretary of the Treasury, with interest, from amounts in the general fund not otherwise appropriated, as soon as possible after such expenditures are made.

In addition, \$120,000,000 to be derived from administration fees in excess of \$5.00 per supplementary payment collected pursuant to section 1616(d) of the Social Security Act or section 212(b)(3) of Public Law 93-66, which shall remain available until expended. To the extent that the amounts collected pursuant to such section 1616(d) or 212(b)(3) in fis-

cal year 2004 exceed \$120,000,000, the amounts shall be available in fiscal year 2005 only to the extent provided in advance in appropriations Acts.

From funds previously appropriated for this purpose, any unobligated balances at the end of fiscal year 2002 shall be available to continue Federal-State partnerships which will evaluate means to promote Medicare buy-in programs targeted to elderly and disabled individuals under titles XVIII and XIX of the Social Security Act.

#### OFFICE OF INSPECTOR GENERAL (INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$25,000,000, together with not to exceed \$65,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

In addition, an amount not to exceed 3 percent of the total provided in this appropriation may be transferred from the "Limitation on Administrative Expenses", Social Security Administration, to be merged with this account, to be available for the time and purposes for which this account is available: *Provided*, That notice of such transfers shall be transmitted promptly to the Committees on Appropriations of the House and Senate.

#### UNITED STATES INSTITUTE OF PEACE OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, \$17,200,000.

#### TITLE V—GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

SEC. 504. The Secretaries of Labor and Education are authorized to make available not to exceed \$28,000 and \$20,000, respectively, from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed \$5,000 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the Na-

tional Mediation Board is authorized to make available for official reception and representation expenses not to exceed \$5,000 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

SEC. 506. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or sub-contract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 507. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state: (1) the percentage of the total costs of the program or project which will be financed with Federal money; (2) the dollar amount of Federal funds for the project or program; and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

SEC. 508. (a) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for any abortion.

(b) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for health benefits coverage that includes coverage of abortion.

(c) The term "health benefits coverage" means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

SEC. 509. (a) The limitations established in the preceding section shall not apply to an abortion—

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds).

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a

provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).

SEC. 510. (a) None of the funds made available in this Act may be used for—

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.208(a)(2) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term "human embryo or embryos" includes any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.

SEC. 511. (a) None of the funds made available in this Act may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

SEC. 512. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity if—

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

SEC. 513. None of the funds made available in this Act may be used to promulgate or adopt any final standard under section 1173(b) of the Social Security Act (42 U.S.C. 1320d-2(b)) providing for, or providing for the assignment of, a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard.

SEC. 514. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 515. (a) Of the total amount appropriated for "Education for the Disadvantaged" in title III of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2003 (Pub. L. 108-7, div. G)—

(1) the portion becoming available on July 1, 2003, is hereby increased by \$2,244,000,000; and

(2) the portion becoming available on October 1, 2003, is hereby reduced by \$2,244,000,000.

(b) The rescission made by section 601 of the Miscellaneous Appropriations Act, 2003 (Pub. L. 108-7, div. N) shall not apply to the amounts of the increase and reduction specified in this section.

SEC. 516. None of the funds made available by this Act to carry out the Library Services and Technology Act may be made available to any library covered by paragraph (1) of

section 224(f) of such Act (20 U.S.C. 9134(f)), as amended by the Children's Internet Protections Act, unless such library has made the certifications required by paragraph (4) of such section.

SEC. 517. None of the funds made available by this Act to carry out part D of title II of the Elementary and Secondary Education Act of 1965 may be made available to any elementary or secondary school covered by paragraph (1) of section 2441(a) of such Act (20 U.S.C. 6777(a)), as amended by the Children's Internet Protections Act and the No Child Left Behind Act, unless the local educational agency with responsibility for such covered school has made the certifications required by paragraph (2) of such section.

SEC. 518. In the case of taxpayers with adjusted gross income in excess of \$1,000,000 for the tax year beginning in 2003, the amount of tax reduction resulting from enactment of the Jobs and Growth Tax Relief Reconciliation Act of 2003 shall be reduced by 32 percent.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004".

The CHAIRMAN. Points of order are reserved.

Pursuant to the order of the House of today, the gentleman from Wisconsin (Mr. OBEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I yield myself such time as I may consume, although I do not intend to take all of the time. I think we have already had the discussion; we might as well get to the votes just as quickly as possible. Let me simply explain what this amendment does.

The Republican majority, as I said earlier, made a conscious decision over the last 2 years to provide \$2 trillion in tax cuts, all of which were paid for with borrowed money; and by doing that, they decided they were going to put the Congress in a box and the Congress would, therefore, not be able to adequately fund a number of crucial investments, including education and health. This bill now is suffering from the consequences of that action.

What we are trying to do by this amendment is to get the House to reconsider its decision. The gentleman from Texas said that those of us on the minority side of the aisle are desirous of raising taxes. This amendment does not raise taxes.

What we are asking this House to do is to limit the size of the tax cut for the 200,000 Americans who make more than \$1 million a year. We are asking to limit the size of that tax cut to \$44,000 instead of the \$88,000 tax cut that they would otherwise get, so that we can use that money for the following:

In this amendment, which is one of two, we would simply reduce the size of that tax cut so that we could put \$334 million into this bill for title I, which is the main education program that tries to help youngsters who need special help; but to get that help, we provide \$334 million more to meet the promises of the Republican Party bud-

et resolution. It is not our budget resolution; it is the budget resolution of our friends on the other side of the aisle.

We would also add \$1.2 billion to the special education portion of the bill, again, so that we meet the Republican budget resolution promise. We would increase the Pell grant maximum grant by a modest \$150 million, or 4 percent over the subcommittee bill. In the health area, we would provide \$73 million of additional funding for community health centers. We would continue to rebuild the capacity of our public health system to respond to potential biological or chemical terrorist attacks. We would provide a 5.5 percent overall increase for NIH for biomedical research so that we can continue the progress that we have made on cancer, heart disease, Parkinson's, and many other diseases that plague mankind.

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We would eliminate the cut of the Low Income Heating Assistance Program and provide \$450 million more. We would provide \$151 million more for community service block grants. We would provide \$170 million in recognition of the fact that the Social Security Administration's backlog for approving and reviewing disability cases has risen from 400,000 to 600,000 cases.

As I said, what we are trying to do is to reestablish the linkage between actions taken on the tax cuts front and their implications for legislation such as the bill before us today.

So with that, Mr. Chairman, we have no further speakers on this side and I would simply seek a vote. And let me explain that if the gentleman lodges a point of order on this amendment, then what we will do instead of appealing the ruling to the Chair, what we will do instead is to simply at that point move to strike the enacting clause so that we can have a vote on whether or not you want to put the needs of millionaires for tax cuts ahead of the needs of our children for adequate education and health care.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does the gentleman from Ohio (Mr. REGULA) claim time?

Mr. REGULA. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

POINT OF ORDER

Mr. REGULA. Mr. Chairman, we had this debate on the Committee on Ways and Means jurisdiction on the issue of a tax cut. This is not the proper venue. This is the appropriations bill; and, therefore, Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill and, therefore, violates clause 2 of rule XXI. In addition, the amendment is a tax or tariff measure and is in violation of clause 5(a) of rule XXI.

Clause 2 of rule XXI states in the pertinent part: "An amendment to a general appropriations bill shall not be in order if it changes existing law."

The amendment amends existing law. Clause 5(a) of rule XXI states in part: "A bill or joint resolution carrying a tax or tariff measure may not be reported by a committee not having jurisdiction to report tax or tariff measures. And an amendment in the House or proposed by the Senate carrying a tax or tariff measure shall not be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction."

The amendment is clearly legislation as well as a tax or tariff provision. And it is, therefore, in violation of the House rules.

Mr. Chairman, I ask for a ruling from the Chair.

The CHAIRMAN. Does the gentleman from Wisconsin (Mr. OBEY) wish to be heard on the point of order?

Mr. OBEY. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Wisconsin is recognized.

Mr. OBEY. Mr. Chairman, clearly if this point of order is upheld, what the majority would succeed in doing is, again, hiding from the public the practical consequences to education and to health care, worker protection programs of the majority party's past actions on tax cuts. What the majority party is trying to do is to use the rules to segment the discussion of the budget process so that one day without any context whatsoever, the House considers tax cuts and then after they have done that, then separately they consider what will happen to the rest of the budget. We think that is going to wind up with an unhealthy result for the public.

We do not control the House. Obviously, the majority party does; and so they have the capacity to use the rules that way. But when they do so, what they do, in my view, is to make meaningless virtually all debate and discussion in this House. And so if the gentleman insists on his point of order, we will have no choice but to concede it, and at that point I would simply then have a preferential motion at the desk which would ask that the enacting clause be stricken from this bill until such time as the House reconsiders its action on the tax package so that we do have room in the inn for the children this bill is supposed to serve.

The CHAIRMAN. For the reasons stated by the gentleman from Ohio (Mr. REGULA) and on the concession of the gentleman from Wisconsin (Mr. OBEY), the point of order is conceded and sustained.

PREFERENTIAL MOTION OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I have a preferential motion at the desk.

The Clerk read as follows:

Mr. OBEY moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Wisconsin (Mr. OBEY) is recognized for 5 minutes in support of his preferential motion.

Mr. OBEY. Mr. Chairman, we have taken this action out of courtesy to

the Chair. But I feel very strongly about the vote that this motion will trigger.

When we are together in a bipartisan fashion, as we have been on some occasions in the past 8 years, we have produced good pieces of work and both political parties have justly been proud of the outcome. But right now this House is locked in the clutches of an ideological majority which has decided that at all costs they will put tax cuts primarily targeted at the most wealthy people in this country ahead of every other legitimate need. So they have passed \$2 trillion in tax cuts, all paid for with borrowed money; and then when the labor-health appropriations bill comes to the floor, they say, "Oh, I am sorry. We have to stop the progress at NIH. I am sorry, we cannot have any expansion of research this year for cancer or for Parkinson's or diabetes or for any of the other diseases that plague people. I am sorry, we cannot even meet our own promises for title I in the education bill. I am sorry, we cannot meet our promises to children who require special help because of disabilities. I am sorry, we cannot meet those promises because, you see, we have already spent the money on the tax cut."

So what we are saying is: "Look, take this bill back to committee, strike the enacting clause so that the bill can go no further, go back and reconsider, go back and reconsider and allow us to vote on shaving the size of that tax bill." Only for the top. All we are talking about is to take a look at the size of the tax bill, or the size of the tax cuts, I should say, that are provided to people who make more than a million dollars a year. Right now they are scheduled to get an \$88,000 tax cut. We are saying if you shave that in this amendment to only \$70,000, you can meet the education needs of the country; you can meet the health care needs of the country. You have spent \$2 trillion on tax cuts, and now you are telling us there is not room in the end for \$2.8 billion in education funding and in health care funding? That is what you are telling us.

You built the box in which you are now locked; and you are saying, "Gee whiz, we do not have a key." This is the key. So if you vote for this motion, you will be voting to send this bill back to the committee until this House comes to its senses and says to our friends, the 200,000 of them who make over a million dollars a year, "Folks, we love you. We hope everybody can see the day when they will make a million dollars, but we ask you to take just a little bit less so we can provide funding in this bill for education and health care and other needed public services."

I would bet you that 90 percent of the people who are going to get those giant-size tax cuts would say, "You bet. We think we would rather see those investments in children before getting this superduper-sized tax cut."

I have enough confidence in their patriotism and their concern about the future of this country that they would make that choice even if a majority of this House seems to not want to make or even confront that decision.

Mr. Chairman, I would ask for an "aye" vote on the motion.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Ohio (Mr. REGULA) is recognized for 5 minutes in opposition to the motion.

Mr. REGULA. Mr. Chairman, I would be interested in checking with Treasury to find out how many people would voluntarily return their tax cuts. I would daresay it will be few.

I want to point out once against that this budget is double what it was 8 years ago when we took over for all of these good things. Having said that, I oppose the amendment. I hope my colleagues will vote "no" on this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 199, noes 222, not voting 13, as follows:

[Roll No. 347]

AYES—199

Abercrombie	Delahunt	Jones (OH)
Ackerman	DeLauro	Kanjorski
Alexander	Deutsch	Kaptur
Allen	Dicks	Kennedy (RI)
Andrews	Dingell	Kildee
Baca	Doggett	Kilpatrick
Baird	Dooley (CA)	Kind
Baldwin	Doyle	Klecza
Ballance	Edwards	Kucinich
Becerra	Emanuel	Lampson
Bell	Engel	Langevin
Berkley	Eshoo	Lantos
Berman	Etheridge	Larsen (WA)
Berry	Evans	Larson (CT)
Bishop (GA)	Farr	Lee
Bishop (NY)	Fattah	Levin
Blumenauer	Filner	Lewis (GA)
Boswell	Ford	Lipinski
Boucher	Frank (MA)	Lofgren
Boyd	Frost	Lowe
Brady (PA)	Gonzalez	Lucas (KY)
Brown (OH)	Gordon	Lynch
Brown, Corrine	Green (TX)	Majette
Capps	Grijalva	Maloney
Capuano	Gutierrez	Markey
Cardin	Hastings (FL)	Marshall
Cardoza	Hill	Matheson
Carson (IN)	Hinche	Matsui
Carson (OK)	Hinojosa	McCarthy (MO)
Case	Hoefel	McCarthy (NY)
Clay	Holden	McCollum
Clyburn	Holt	McDermott
Cooper	Honda	McGovern
Costello	Hoolley (OR)	McIntyre
Crowley	Hoyer	McNulty
Cummings	Inslee	Meehan
Davis (AL)	Israel	Meek (FL)
Davis (CA)	Jackson (IL)	Meeks (NY)
Davis (FL)	Jackson-Lee	Menendez
Davis (IL)	(TX)	Michaud
Davis (TN)	Jefferson	Miller (NC)
DeFazio	John	Miller, George
DeGette	Johnson, E. B.	Mollohan

Moore	Royal-Ballard	Strickland
Moran (VA)	Ruppersberger	Stupak
Murtha	Rush	Tanner
Nadler	Ryan (OH)	Tauscher
Napolitano	Sabo	Taylor (MS)
Neal (MA)	Sanchez, Linda	Thompson (CA)
Oberstar	T.	Thompson (MS)
Obey	Sanchez, Loretta	Tierney
Olver	Sanders	Towns
Ortiz	Sandlin	Turner (TX)
Pallone	Schakowsky	Udall (CO)
Pascarell	Schiff	Udall (NM)
Pastor	Scott (GA)	Van Hollen
Payne	Scott (VA)	Velazquez
Pelosi	Serrano	Visclosky
Peterson (MN)	Sherman	Waters
Pomeroy	Skelton	Watson
Price (NC)	Slaughter	Watt
Rahall	Smith (WA)	Waxman
Rangel	Snyder	Weiner
Reyes	Solis	Wexler
Rodriguez	Spratt	Woolsey
Ross	Stark	Wu
Rothman	Stenholm	Wynn

NOES—222

Aderholt	Garrett (NJ)	Nunes
Akin	Gerlach	Nussle
Bachus	Gilchrest	Osborne
Baker	Gillmor	Ose
Ballenger	Gingrey	Otter
Barrett (SC)	Goode	Oxley
Bartlett (MD)	Goodlatte	Paul
Barton (TX)	Granger	Pearce
Bass	Graves	Pence
Beauprez	Green (WI)	Peterson (PA)
Bereuter	Greenwood	Petri
Biggett	Gutknecht	Pickering
Billrakis	Hall	Pitts
Bishop (UT)	Harris	Platts
Blackburn	Hart	Pombo
Blunt	Hastings (WA)	Porter
Boehlert	Hayes	Portman
Boehner	Hayworth	Pryce (OH)
Bonilla	Hefley	Putnam
Bonner	Hensarling	Quinn
Bono	Hobson	Radanovich
Boozman	Hobson	Ramstad
Bradley (NH)	Hoekstra	Regula
Brady (TX)	Hostettler	Rehberg
Brown (SC)	Houghton	Renzi
Brown-Waite,	Hulshof	Reynolds
Ginny	Hunter	Rogers (AL)
Burgess	Hyde	Rogers (KY)
Burns	Isakson	Rogers (MI)
Burr	Issa	Rohrabacher
Burton (IN)	Istook	Ros-Lehtinen
Buyer	Jenkins	Royce
Calvert	Johnson (CT)	Ryan (WI)
Camp	Johnson (IL)	Ryun (KS)
Cannon	Johnson, Sam	Saxton
Cantor	Jones (NC)	Schrock
Capito	Keller	Sensenbrenner
Carter	Kelly	Sessions
Castle	Kennedy (MN)	Shadegg
Chabot	King (IA)	Shaw
Chocola	King (NY)	Shays
Coble	Kirk	Sherwood
Cole	Kline	Shimkus
Collins	Knollenberg	Shuster
Cox	Kolbe	Simmons
Crane	LaHood	Simpson
Crenshaw	Latham	Smith (MI)
Cubin	LaTourette	Smith (NJ)
Culberson	Leach	Smith (TX)
Cunningham	Lewis (CA)	Souder
Davis, Jo Ann	Lewis (KY)	Stearns
Davis, Tom	Linder	Sullivan
Deal (GA)	LoBiondo	Sweeney
DeLay	Lucas (OK)	Tancredo
DeMint	Manzullo	Tauzin
Diaz-Balart, L.	McCotter	Taylor (NC)
Diaz-Balart, M.	McCrery	Terry
Doolittle	McHugh	Thomas
Dreier	McInnis	Thornberry
Duncan	McKeon	Tiahrt
Dunn	Mica	Tiberi
Ehlers	Miller (FL)	Toomey
Emerson	Miller (MI)	Turner (OH)
English	Miller, Gary	Upton
Everett	Moran (KS)	Vitter
Feeney	Murphy	Walden (OR)
Ferguson	Musgrave	Walsh
Flake	Myrick	Wamp
Foley	Nethercutt	Weldon (FL)
Forbes	Neugebauer	Weldon (PA)
Franks (AZ)	Ney	Weller
Frelinghuysen	Northup	
Gallegly	Norwood	

Wicker	Wilson (SC)	Young (AK)
Wilson (NM)	Wolf	Young (FL)

NOT VOTING—13

Conyers	Gibbons	Millender-
Cramer	Goss	McDonald
Fletcher	Harman	Owens
Fossella	Janklow	Whitfield
Gephardt	Kingston	

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1500

Messrs. GARRETT of New Jersey, PAUL, McINNIS, Mrs. MYRICK, Mr. RAMSTAD and Mr. GARY G. MILLER of California changed their vote from "aye" to "no."

Mr. SCOTT of Georgia changed his vote from "no" to "aye."

So the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FLETCHER. Mr. Speaker, on Thursday, July 10, 2003, had I been present for rollcall vote Nos. 346 and 347, I would have voted the following way: Rollcall vote No. 346, on Approving the Journal—"yea"; rollcall vote No. 347, strike enacting clause of H.R. 2660—"nay."

Mr. REGULA. Mr. Chairman, as the gentleman from Wisconsin (Mr. OBEY) and myself are making every effort to expedite this bill today, I, therefore, ask unanimous consent that the remainder of the bill, through page 91, line 17, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The text of the bill from page 2, line 5 through page 91, line 17 is as follows:

TRAINING AND EMPLOYMENT SERVICES

For necessary expenses of the Workforce Investment Act of 1998, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by such Act; \$2,614,039,000 plus reimbursements, of which \$1,582,858,000 is available for obligation for the period July 1, 2004 through June 30, 2005, except that amounts determined by the Secretary of Labor to be necessary pursuant to sections 173(a)(4)(A) and 174(c) of such Act shall be available from October 1, 2003 until expended; of which \$1,000,965,000 is available for obligation for the period April 1, 2004 through June 30, 2005; and of which \$30,216,000 is available for the period July 1, 2004 through June 30, 2007 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers: *Provided*, That notwithstanding any other provision of law, of the funds provided herein under section 137(c) of such Act, \$305,993,000 shall be for activities described in section 132(a)(2)(A) of such Act and \$1,155,152,000 shall be for activities described in section 132(a)(2)(B) of such Act: *Provided further*, That, notwithstanding any other provision of law or related regulation, \$60,000,000 shall be for carrying out section 167 of such Act, including \$56,000,000 for formula grants and \$3,600,000 for migrant and seasonal housing, including permanent housing, and \$400,000 for other discretionary pur-

poses: *Provided further*, That funds appropriated under this heading in Public Law 108-7 for migrant and seasonal farmworkers housing shall be made available only under the terms and conditions in effect June 30, 2002, and shall include funding for permanent housing: *Provided further*, That notwithstanding the transfer limitation under section 133(b)(4) of such Act, up to 30 percent of such funds may be transferred by a local board if approved by the Governor: *Provided further*, That funds provided to carry out section 171(d) of such Act may be used for demonstration projects that provide assistance to new entrants in the workforce and incumbent workers: *Provided further*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further*, That notwithstanding any other provision of law, funds awarded under a grant issued by the Department of Labor pursuant to section 173 of such Act on June 30, 2001, to the San Diego Workforce Partnership may be used to provide services to spouses of military personnel.

For necessary expenses of the Workforce Investment Act of 1998, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by such Act; \$2,463,000,000 plus reimbursements, of which \$2,363,000,000 is available for obligation for the period October 1, 2004 through June 30, 2005, and of which \$100,000,000 is available for the period October 1, 2004 through June 30, 2007, for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out title V of the Older Americans Act of 1965, as amended, \$440,200,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments and allowances under part I; and for training, allowances for job search and relocation, and related State administrative expenses under part II, subchapters B and D, chapter 2, title II of the Trade Act of 1974 as amended (including the benefits and services described under sections 123(c)(2) and 151 (b) and (c) of the Trade Adjustment Assistance Reform Act of 2002, Public Law 107-210) \$1,338,200,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For authorized administrative expenses, \$142,520,000, together with not to exceed \$3,472,861,000 (including not to exceed \$1,228,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund including the cost of administering section 51 of the Internal Revenue Code of 1986, as amended, section 7(d) of the Wagner-Peyser Act, as amended, the Trade Act of 1974, as amended, the Immigration Act of 1990, and the Immigration and Nationality Act, as amended, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the

States through December 31, 2004, except that funds used for automation acquisitions shall be available for obligation by the States through September 30, 2006; of which \$142,520,000, together with not to exceed \$768,257,000 of the amount which may be expended from said trust fund, shall be available for obligation for the period July 1, 2004 through June 30, 2005, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail authorized under 39 U.S.C. 3202(a)(1)(E) made available to States in lieu of allotments for such purpose: *Provided*, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 2004 is projected by the Department of Labor to exceed 3,227,000, an additional \$28,600,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: *Provided further*, That funds appropriated in this Act which are used to establish a national one-stop career center system, or which are used to support the national activities of the Federal-State unemployment insurance programs, may be obligated in contracts, grants or agreements with non-State entities: *Provided further*, That funds appropriated under this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A-87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND  
AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 2005, \$467,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 2004, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, \$115,824,000, including \$2,393,000 to administer welfare-to-work grants, together with not to exceed \$56,503,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

EMPLOYEE BENEFITS SECURITY  
ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employee Benefits Security Administration \$128,605,000.

PENSION BENEFIT GUARANTY CORPORATION  
PENSION BENEFIT GUARANTY CORPORATION  
FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limi-

tations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 2004, for such Corporation: *Provided*, That none of the funds available to the Corporation for fiscal year 2004 shall be available for obligations for administrative expenses in excess of \$228,772,000: *Provided further*, That obligations in excess of such amount may be incurred after approval by the Office of Management and Budget and the Committees on Appropriations of the House and the Senate.

EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, \$395,697,000, together with \$2,056,000 which may be expended from the Special Fund in accordance with sections 39(c), 44(d) and 44(j) of the Longshore and Harbor Workers' Compensation Act: *Provided*, That \$1,250,000 shall be for the development of an alternative system for the electronic submission of reports required to be filed under the Labor-Management Reporting and Disclosure Act of 1959, as amended, and for a computer database of the information for each submission by whatever means, that is indexed and easily searchable by the public via the Internet: *Provided further*, That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the Department of Labor, all sums of money ordered to be paid to the Secretary of Labor, in accordance with the terms of the Consent Judgment in Civil Action No. 91-0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): *Provided further*, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the heading 'Civilian War Benefits' in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 percent of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, \$163,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That amounts appropriated may be used under section 8104 of title 5, United States Code, by the Secretary of Labor to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements unobligated on September 30, 2002, shall remain available until expended for the payment of compensation,

benefits, and expenses: *Provided further*, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary determines to be the cost of administration for employees of such fair share entities through September 30, 2004: *Provided further*, That of those funds transferred to this account from the fair share entities to pay the cost of administration of the Federal Employees' Compensation Act, \$39,315,000 shall be made available to the Secretary as follows: (1) for enhancement and maintenance of automated data processing systems and telecommunications systems, \$11,618,000; (2) for automated workload processing operations including document imaging, centralized mail intake and medical bill processing, \$14,496,000; (3) for periodic roll management and medical review, \$13,210,000; and (4) the remaining funds shall be paid into the Treasury as miscellaneous receipts: *Provided further*, That the Secretary may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or 33 U.S.C. 901 et seq., provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

SPECIAL BENEFITS FOR DISABLED COAL  
MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, as amended by Public Law 107-275 (the "Act"), \$300,000,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Act, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the first quarter of fiscal year 2005, \$88,000,000, to remain available until expended.

ADMINISTRATIVE EXPENSES, ENERGY EMPLOYEES  
OCCUPATIONAL ILLNESS COMPENSATION  
FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to administer the Energy Employees Occupational Illness Compensation Act, \$55,074,000 to remain available until expended: *Provided*, That the Secretary of Labor is authorized to transfer to any executive agency with authority under the Energy Employees Occupational Illness Compensation Act, including within the Department of Labor, such sums as may be necessary in fiscal year 2004 to carry out those authorities: *Provided further*, That the Secretary may require that any person filing a claim for benefits under the Act provide as part of such claim, such identifying information (including Social Security account number) as may be prescribed.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

Beginning in fiscal year 2004 and thereafter, such sums as may be necessary from the Black Lung Disability Trust Fund, to remain available until expended, for payment of all benefits authorized by section 9501(d)(1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended; and interest on advances, as authorized by section 9501(c)(2) of that Act. In addition, the following amounts shall be available from the Fund for fiscal year 2004 for expenses of operation and administration of the Black Lung Benefits program, as authorized by section 9501(d)(5): \$32,004,000 for transfer to the Employment Standards Administration, "Salaries and Expenses"; \$23,401,000 for transfer to

Departmental Management, "Salaries and Expenses"; \$338,000 for transfer to Departmental Management, "Office of Inspector General"; and \$356,000 for payments into miscellaneous receipts for the expenses of the Department of the Treasury.

OCCUPATIONAL SAFETY AND HEALTH  
ADMINISTRATION  
SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, \$450,008,000, including not to exceed \$91,747,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act (the "Act"), which grants shall be no less than 50 percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Act; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to \$750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: *Provided*, That, notwithstanding 31 U.S.C. 3302, the Secretary of Labor is authorized, during the fiscal year ending September 30, 2004, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Act which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Act with respect to any employer of 10 or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising

rights under such Act: *Provided further*, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION  
SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, \$266,767,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; including up to \$1,000,000 for mine rescue and recovery activities, which shall be available only to the extent that fiscal year 2004 obligations for these activities exceed \$1,000,000; in addition, not to exceed \$750,000 may be collected by the National Mine Health and Safety Academy for room, board, tuition, and the sale of training materials, otherwise authorized by law to be collected, to be available for mine safety and health education and training activities, notwithstanding 31 U.S.C. 3302; and, in addition, the Mine Safety and Health Administration may retain up to \$1,000,000 from fees collected for the approval and certification of equipment, materials, and explosives for use in mines, and may utilize such sums for such activities; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster.

BUREAU OF LABOR STATISTICS  
SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, \$437,152,000, together with not to exceed \$75,110,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

OFFICE OF DISABILITY EMPLOYMENT POLICY  
SALARIES AND EXPENSES

For necessary expenses for the Office of Disability Employment Policy to provide leadership, develop policy and initiatives, and award grants furthering the objective of eliminating barriers to the training and employment of people with disabilities, \$47,333,000.

DEPARTMENTAL MANAGEMENT  
SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans; \$48,565,000 for the acquisition of Departmental information technology, architecture, infrastructure, equipment, software and related needs which will be allocated by the Department's Chief Information Officer in accordance with the Department's capital investment management process to assure a sound investment management process to assure a sound investment strategy; \$252,701,000; together with not to exceed \$317,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund: *Provided*, That no funds made available by this Act may be used by the Solicitor of Labor to participate in a review in any United States court of appeals of any deci-

sion made by the Benefits Review Board under section 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921) where such participation is precluded by the decision of the United States Supreme Court in *Director, Office of Workers' Compensation Programs v. Newport News Shipbuilding*, 115 S. Ct. 1278 (1995), notwithstanding any provisions to the contrary contained in Rule 15 of the Federal Rules of Appellate Procedure: *Provided further*, That no funds made available by this Act may be used by the Secretary of Labor to review a decision under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) that has been appealed and that has been pending before the Benefits Review Board for more than 12 months: *Provided further*, That any such decision pending a review by the Benefits Review Board for more than 1 year shall be considered affirmed by the Benefits Review Board on the 1-year anniversary of the filing of the appeal, and shall be considered the final order of the Board for purposes of obtaining a review in the United States courts of appeals: *Provided further*, That these provisions shall not be applicable to the review or appeal of any decision issued under the Black Lung Benefits Act (30 U.S.C. 901 et seq.).

VETERANS EMPLOYMENT AND TRAINING

Not to exceed \$193,443,000 may be derived from the Employment Security Administration Account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100-4110A, 4212, 4214, and 4321-4327, and Public Law 103-353, and which shall be available for obligation by the States through December 31, 2004, of which \$2,000,000 is for the National Veterans' Employment and Training Services Institute. To carry out the Homeless Veterans Reintegration Programs (38 U.S.C. 2021) and the Veterans Workforce Investment Programs (29 U.S.C. 2913), \$26,550,000 of which \$7,550,000 shall be available for obligation for the period July 1, 2004 through June 30, 2005.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$60,896,000, together with not to exceed \$5,899,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

WORKING CAPITAL FUND

For the acquisition of a new core accounting system for the Department of Labor, including hardware and software infrastructure and the costs associated with implementation thereof, \$18,000,000.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title for the Job Corps shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level II.

(TRANSFER OF FUNDS)

SEC. 102. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

This title may be cited as the "Department of Labor Appropriations Act, 2004".

## TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

## HEALTH RESOURCES AND SERVICES ADMINISTRATION

## HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, IV, VII, VIII, X, XII, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V, and sections 1128E, 711 and 1820 of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, the Native Hawaiian Health Care Act of 1988, as amended, the Cardiac Arrest Survival Act of 2000, and the Poison Control Center Enhancement and Awareness Act, \$6,252,256,000, of which \$39,740,000 from general revenues, notwithstanding section 1820(j) of the Social Security Act, shall be available for carrying out the Medicare rural hospital flexibility grants program under section 1820 of such Act: *Provided*, That of the funds made available under this heading, \$248,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: *Provided further*, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: *Provided further*, That fees collected for the full disclosure of information under the "Health Care Fraud and Abuse Data Collection Program", authorized by section 1128E(d)(2) of the Social Security Act, shall be sufficient to recover the full costs of operating the program, and shall remain available until expended to carry out that Act: *Provided further*, That no more than \$45,000,000 is available for carrying out the provisions of Public Law 104-73: *Provided further*, That of the funds made available under this heading, \$273,350,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: *Provided further*, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: *Provided further*, That \$753,317,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act: *Provided further*, That notwithstanding section 502(a)(1) of the Social Security Act, not to exceed \$117,831,000 is for carrying out special projects of regional and national significance pursuant to section 501(l)(2): *Provided further*, That \$65,000,000 is available for special projects of regional and national significance under section 501(a)(2) of the Social Security Act, which shall not be counted toward compliance with the allocation required in section 502(a)(1) of such Act, and which shall be used only for making competitive grants to provide abstinence education (as defined in section 510(b)(2) of such Act) to adolescents and for evaluations (including longitudinal evaluations) of activities under the grants and for Federal costs of administering the grants: *Provided further*, That grants under the immediately preceding proviso shall be made only to public and private entities which agree that, with respect to an adolescent to whom the entities provide abstinence education under such grant, the entities will not provide to that adolescent any other education regarding sexual conduct, except that, in the case

of an entity expressly required by law to provide health information or services the adolescent shall not be precluded from seeking health information or services from the entity in a different setting than the setting in which the abstinence education was provided: *Provided further*, That the funds expended for such evaluations may not exceed 3.5 percent of such amount.

## HEALTH EDUCATION ASSISTANCE LOANS PROGRAM ACCOUNT

Such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended. For administrative expenses to carry out the guaranteed loan program, including section 709 of the Public Health Service Act, \$3,389,000.

## VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed \$3,472,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

## CENTERS FOR DISEASE CONTROL AND PREVENTION

## DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, XIX, XXI, and XXVI of the Public Health Service Act, sections 101, 102, 103, 201, 202, 203, 301, and 501 of the Federal Mine Safety and Health Act of 1977, sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970, title IV of the Immigration and Nationality Act, and section 501 of the Refugee Education Assistance Act of 1980; including (purchase and) insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, \$4,588,671,000, of which \$206,000,000 shall remain available until expended for equipment, and construction and renovation of facilities, and of which \$242,569,000 for international HIV/AIDS shall remain available until September 30, 2005, including not less than \$100,000,000, to remain available until expended, for the "International Mother and Child HIV Prevention Initiative", and in addition, such sums as may be derived from authorized user fees, which shall be credited to this account: *Provided*, That in addition to amounts provided herein, \$13,226,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the National Center for Health Statistics surveys: *Provided further*, That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used, in whole or in part, to advocate or promote gun control: *Provided further*, That the Director may redirect the total amount made available under authority of Public Law 101-502, section 3, dated November 3, 1990, to activities the Director may so designate: *Provided further*, That the Congress is to be notified promptly of any such transfer: *Provided further*, That not to exceed \$12,500,000 may be available for making grants under section 1509 of the Public Health Service Act to not more than 15 States: *Provided further*, That without regard to existing statute, funds appropriated may be used to proceed, at the discretion of the Centers for Disease Control and Prevention, with property acquisition, including a long-term ground lease for construction on non-federal land, to support the construction of a replacement laboratory in

the Fort Collins, Colorado area: *Provided further*, That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: *Provided further*, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232-18.

## NATIONAL INSTITUTES OF HEALTH NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, \$4,770,519,000.

## NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, \$2,867,995,000.

## NATIONAL INSTITUTE OF DENTAL AND CRANIOFACIAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, \$382,396,000.

## NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney disease, \$1,670,007,000.

## NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, \$1,468,926,000.

## NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

## (INCLUDING TRANSFER OF FUNDS)

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, \$4,335,255,000: *Provided*, That \$100,000,000 may be made available to International Assistance Programs, "Global Fund to Fight HIV/AIDS, Malaria, and Tuberculosis", to remain available until expended.

## NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, \$1,923,133,000.

## NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, \$1,245,371,000.

## NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, \$648,299,000.

## NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, \$630,774,000.

## NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, \$994,411,000.

## NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis and musculoskeletal and skin diseases, \$502,778,000.

## NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect

to deafness and other communication disorders, \$380,377,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, \$134,579,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, \$430,121,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, \$995,614,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, \$1,382,114,000.

NATIONAL HUMAN GENOME RESEARCH INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, \$478,072,000.

NATIONAL INSTITUTE OF BIOMEDICAL IMAGING AND BIOENGINEERING

For carrying out section 301 and title IV of the Public Health Service Act with respect to biomedical imaging and bioengineering research, \$282,109,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, \$1,053,926,000: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to complementary and alternative medicine, \$116,202,000.

NATIONAL CENTER ON MINORITY HEALTH AND HEALTH DISPARITIES

For carrying out section 301 and title IV of the Public Health Service Act with respect to minority health and health disparities research, \$192,724,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, \$64,266,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, \$316,040,000, of which \$4,000,000 shall be available until expended for improvement of information systems: *Provided*, That in fiscal year 2004, the Library may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, \$317,983,000: *Provided*, That funding shall be available for the purchase of not to exceed 29 passenger motor vehicles for replacement only: *Provided further*, That the Director may direct up to 1 percent of the total amount made available in this or any other Act to all National Institutes of Health appropriations to activities the Director may so designate: *Provided further*, That no such appropriation shall be decreased by more than 1 percent by any such

transfers and that the Congress is promptly notified of the transfer: *Provided further*, That the National Institutes of Health is authorized to collect third party payments for the cost of clinical services that are incurred in National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: *Provided further*, That all funds credited to the National Institutes of Health Management Fund shall remain available for 1 fiscal year after the fiscal year in which they are deposited: *Provided further*, That up to \$500,000 shall be available to carry out section 499 of the Public Health Service Act.

BUILDINGS AND FACILITIES

For the study of, construction of, renovation of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, \$80,000,000, to remain available until expended.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act with respect to substance abuse and mental health services, the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and section 301 of the Public Health Service Act with respect to program management, \$3,329,000,000: *Provided further*, That in addition to amounts provided herein, \$16,000,000 shall be made available from amounts available under section 241 of the Public Health Service Act to carry out national surveys on drug abuse.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 927(c) of the Public Health Service Act shall not exceed \$303,695,000.

CENTERS FOR MEDICARE AND MEDICAID SERVICES

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, \$130,892,197,000, to remain available until expended.

For making, after May 31, 2004, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 2004 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or in the case of section 1928 on behalf of States under title XIX of the Social Security Act for the first quarter of fiscal year 2005, \$58,416,275,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under section 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security

Amendments of 1965, section 278(d) of Public Law 97-248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, \$95,084,100,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, XIX, and XXI of the Social Security Act, titles XIII and XXVII of the Public Health Service Act, and the Clinical Laboratory Improvement Amendments of 1988, not to exceed \$2,698,025,000, to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; together with all funds collected in accordance with section 353 of the Public Health Service Act and section 1857(e)(2) of the Social Security Act, and such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended, and together with administrative fees collected relative to Medicare overpayment recovery activities, which shall remain available until expended: *Provided*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act shall be credited to and available for carrying out the purposes of this appropriation: *Provided further*, That \$65,000,000, to remain available until September 30, 2005, is for contract costs for CMS' Systems Revitalization Plan: *Provided further*, That \$56,991,000, to remain available until September 30, 2005, is for contract costs for the Healthcare Integrated General Ledger Accounting System: *Provided further*, That \$129,000,000 shall be for processing Medicare appeals: *Provided further*, That the Secretary of Health and Human Services is directed to collect fees in fiscal year 2004 from Medicare+Choice organizations pursuant to section 1857(e)(2) of the Social Security Act and from eligible organizations with risk-sharing contracts under section 1876 of that Act pursuant to section 1876(k)(4)(D) of that Act.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 2004, no commitments for direct loans or loan guarantees shall be made.

ADMINISTRATION FOR CHILDREN AND FAMILIES

PAYMENTS TO STATES FOR CHILD SUPPORT ENFORCEMENT AND FAMILY SUPPORT PROGRAMS

For making payments to States or other non-Federal entities under titles I, IV-D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), \$3,292,970,000, to remain available until expended; and for such purposes for the first quarter of fiscal year 2005, \$1,200,000,000, to remain available until expended.

For making payments to each State for carrying out the program of Aid to Families with Dependent Children under title IV-A of the Social Security Act before the effective date of the program of Temporary Assistance for Needy Families (TANF) with respect to such State, such sums as may be necessary: *Provided*, That the sum of the amounts available to a State with respect to expenditures under such title IV-A in fiscal year 1997 under this appropriation and under such title IV-A as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not exceed the limitations under section 116(b) of such Act.

For making, after May 31 of the current fiscal year, payments to States or other non-

Federal entities under titles I, IV-D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

#### LOW-INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, \$1,700,000,000.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, \$100,000,000: *Provided*, That these funds are for the unanticipated home energy assistance needs of one or more States, as authorized by section 2604(e) of the Act, and notwithstanding the designation requirement of section 2602(e).

#### REFUGEE AND ENTRANT ASSISTANCE

For necessary expenses for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), for carrying out section 462 of the Homeland Security Act of 2002 (Public Law 107-296), and for carrying out section 5 of the Torture Victims Relief Act of 1998 (Public Law 105-320), \$461,853,000, of which up to \$10,000,000 shall be available to carry out the Trafficking Victims Protection Act of 2000 (Public Law 106-386, div. A): *Provided*, That funds appropriated under this heading pursuant to section 414(a) of the Immigration and Nationality Act for fiscal year 2004 shall be available for the costs of assistance provided and other activities, to remain available through September 30, 2006.

#### PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), \$2,099,729,000 shall be used to supplement, not supplant state general revenue funds for child care assistance for low-income families: *Provided*, That \$19,120,000 shall be available for child care resource and referral and school-aged child care activities, of which \$1,000,000 shall be for the Child Care Aware toll free hotline: *Provided further*, That, in addition to the amounts required to be reserved by the States under section 658G, \$272,672,000 shall be reserved by the States for activities authorized under section 658G, of which \$100,000,000 shall be for activities that improve the quality of infant and toddler care: *Provided further*, That \$9,864,000 shall be for use by the Secretary for child care research, demonstration, and evaluation activities.

#### SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, \$1,700,000,000: *Provided*, That notwithstanding subparagraph (B) of section 404(d)(2) of such Act, the applicable percent specified under such subparagraph for a State to carry out State programs pursuant to title XX of such Act shall be 5.5 percent.

#### DISABLED VOTER SERVICES

For necessary expenses to carry out programs as authorized by the Help America Vote Act of 2002, \$15,000,000, of which \$13,000,000 shall be for payments to States to promote disabled voter access, and of which, \$2,000,000 shall be for payments to States for disabled voters protection and advocacy systems.

#### CHILDREN AND FAMILIES SERVICES PROGRAMS

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start

Act, the Child Abuse Prevention and Treatment Act, sections 310 and 316 of the Family Violence Prevention and Services Act, as amended, the Native American Programs Act of 1974, title II of Public Law 95-266 (adoption opportunities), the Adoption and Safe Families Act of 1997 (Public Law 105-89), sections 1201 and 1211 of the Children's Health Act of 2000, the Abandoned Infants Assistance Act of 1988, part B(1) of title IV and sections 413, 429A, 1110, and 1115 of the Social Security Act, and sections 40155, 40211, and 40241 of Public Law 103-322; for making payments under the Community Services Block Grant Act, sections 439(h), 473A, and 477(j) of the Social Security Act, and title IV of Public Law 105-285, and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, section 5 of the Torture Victims Relief Act of 1998 (Public Law 105-320), sections 40155, 40211, and 40241 of Public Law 103-322, and section 126 and titles IV and V of Public Law 100-485, \$8,599,670,000, of which \$43,000,000, to remain available until September 30, 2005, shall be for grants to States for adoption incentive payments, as authorized by section 473A of title IV of the Social Security Act (42 U.S.C. 670-679) and may be made for adoptions completed before September 30, 2004; of which \$6,815,570,000 shall be for making payments under the Head Start Act, of which \$1,400,000,000 shall become available October 1, 2004 and remain available through September 30, 2005; and of which \$577,562,000 shall be for making payments under the Community Services Block Grant Act: *Provided*, That not less than \$7,250,000 shall be for section 680(3)(B) of the Community Services Block Grant Act, as amended: *Provided further*, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carry-over into the next fiscal year for expenditure by such entity consistent with program purposes: *Provided further*, That the Secretary shall establish procedures regarding the disposition of intangible property which permits grant funds, or intangible assets acquired with funds authorized under section 680 of the Community Services Block Grant Act, as amended, to become the sole property of such grantees after a period of not more than 12 years after the end of the grant for purposes and uses consistent with the original grant: *Provided further*, That funds appropriated for section 680(a)(2) of the Community Services Block Grant Act, as amended, shall be available for financing construction and rehabilitation and loans or investments in private business enterprises owned by community development corporations: *Provided further*, That \$88,043,000 shall be for activities authorized by the Runaway and Homeless Youth Act, notwithstanding the allocation requirements of section 388(a) of such Act, of which \$26,413,000 is for the transitional living program: *Provided further*, That \$50,000,000 is for a compassion capital fund to provide grants to charitable organizations to emulate model social service programs and to encourage research on the best practices of social service organizations.

#### PROMOTING SAFE AND STABLE FAMILIES

For carrying out section 436 of the Social Security Act, \$305,000,000 and for section 437, \$100,000,000.

#### PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities under title IV-E of the Social Security Act, \$5,068,300,000.

For making payments to States or other non-Federal entities under title IV-E of the Act, for the first quarter of fiscal year 2005, \$1,767,700,000.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under section 474 of title IV-E, for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

#### ADMINISTRATION ON AGING

##### AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, and section 398 of the Public Health Service Act, \$1,377,421,000, of which \$5,000,000 shall be available for activities regarding medication management, screening, and education to prevent incorrect medication and adverse drug reactions; and of which \$2,842,000 shall remain available until September 30, 2006 for the White House Conference on Aging.

#### OFFICE OF THE SECRETARY

##### GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six sedans, and for carrying out titles III, XVII, and XX of the Public Health Service Act, and the United States-Mexico Border Health Commission Act, \$343,284,000, together with \$5,813,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund: *Provided*, That of the funds made available under this heading for carrying out title XX of the Public Health Service Act, \$11,185,000 shall be for activities specified under section 2003(b)(2), of which \$10,157,000 shall be for prevention service demonstration grants under section 510(b)(2) of title V of the Social Security Act, as amended, without application of the limitation of section 2010(c) of said title XX: *Provided further*, That of this amount, \$49,675,000 is for minority AIDS prevention and treatment activities; \$18,400,000 is for an Information Technology Security and Innovation Fund for Department-wide activities involving cybersecurity, information technology security, and related innovation projects, and \$5,000,000 is to assist Afghanistan in the development of maternal and child health clinics, consistent with section 103(a)(4)(H) of the Afghanistan Freedom Support Act of 2002.

#### OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$39,497,000: *Provided*, That, of such amount, necessary sums are available for providing protective services to the Secretary and investigating non-payment of child support cases for which non-payment is a Federal offense under 18 U.S.C. 228.

#### OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, \$30,936,000, together with not to exceed \$3,314,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

#### POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section

1110 of the Social Security Act and title III of the Public Health Service Act, \$2,483,000: *Provided*, That in addition to amounts provided herein, \$18,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out national health or human services research and evaluation activities: *Provided further*, That the expenditure of any funds available under section 241 of the Public Health Service Act are subject to the requirements of section 205 of this Act.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan, for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55 and 56), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year. The following are definitions for the medical benefits of the Public Health Service Commissioned Officers that apply to 10 U.S.C. chapter 56, section 1116(c). The source of funds for the monthly accrual payments into the Department of Defense Medicare-Eligible Retiree Health Care Fund shall be the Retirement Pay and Medical Benefits for Commissioned Officers account. For purposes of this Act, the term "pay of members" shall be construed to be synonymous with retirement payments to U.S. Public Health Service officers who are retired for age, disability, or length of service; payments to survivors of deceased officers; medical care to active duty and retired members and dependents and beneficiaries; and for payments to the Social Security Administration for military service credits; all of which payments are provided for by the Retirement Pay and Medical Benefits for Commissioned Officers account.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For expenses necessary to support activities related to countering potential biological, disease and chemical threats to civilian populations, \$1,726,846,000: *Provided*, That this amount is distributed as follows: Centers for Disease Control and Prevention, \$1,116,156,000; Office of the Secretary, \$64,820,000; and Health Resources and Services Administration; \$545,870,000: *Provided further*, That at the discretion of the Secretary of Health and Human Services, these amounts may be transferred between categories subject to normal reprogramming procedures: *Provided further*, That employees of the Centers for Disease Control and Prevention or the Public Health Service, both civilian and Commissioned Officers, detailed to States, municipalities, or other organizations under authority of section 214 of the Public Health Service Act for purposes related to homeland security, shall be treated as non-Federal employees for reporting purposes only and shall not be included within any personnel ceiling applicable to the Agency, Service, or the Department of Health and Human Services during the period of detail or assignment.

In addition, for activities to ensure a year-round influenza vaccine production capacity and the development and implementation of rapidly expandable influenza vaccine production technologies, \$50,000,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed \$50,000 for official reception and representation ex-

penses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated under this Act may be used to implement section 399F(b) of the Public Health Service Act or section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103-43.

SEC. 204. None of the funds appropriated in this Act for the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level 1.

SEC. 205. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in the Department of Health and Human Services, prior to the Secretary's preparation and submission of a report to the Committee on Appropriations of the Senate and of the House detailing the planned uses of such funds.

SEC. 206. Notwithstanding section 241(a) of the Public Health Service Act, such portion as the Secretary shall determine, but not more than 1.25 percent, of any amounts appropriated for programs authorized under said Act shall be made available for the evaluation (directly, or by grants or contracts) of the implementation and effectiveness of such programs.

(TRANSFER OF FUNDS)

SEC. 207. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Health and Human Services in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That an appropriation may be increased by up to an additional 2 percent subject to approval by the House and Senate Committees on Appropriations: *Provided further*, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 208. The Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, may transfer up to 3 percent among institutes, centers, and divisions from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: *Provided*, That the Congress is promptly notified of the transfer.

SEC. 209. Of the amounts made available in this Act for the National Institutes of Health, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of the National Institutes of Health and the Director of the Office of AIDS Research, shall be made available to the "Office of AIDS Research" account. The Director of the Office of AIDS Research shall transfer from such account amounts necessary to carry out section 2353(d)(3) of the Public Health Service Act.

SEC. 210. None of the funds appropriated in this Act may be made available to any enti-

ty under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.

SEC. 211. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare+Choice program if the Secretary denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: *Provided*, That the Secretary shall make appropriate prospective adjustments to the capitation payment to such an entity (based on an actuarially sound estimate of the expected costs of providing the service to such entity's enrollees): *Provided further*, That nothing in this section shall be construed to change the Medicare program's coverage for such services and a Medicare+Choice organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services.

SEC. 212. Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

SEC. 213. (a) Except as provided by subsection (e) none of the funds appropriated by this Act may be used to withhold substance abuse funding from a State pursuant to section 1926 of the Public Health Service Act (42 U.S.C. 300x-26) if such State certifies to the Secretary of Health and Human Services by May 1, 2004 that the State will commit additional State funds, in accordance with subsection (b), to ensure compliance with State laws prohibiting the sale of tobacco products to individuals under 18 years of age.

(b) The amount of funds to be committed by a State under subsection (a) shall be equal to 1 percent of such State's substance abuse block grant allocation for each percentage point by which the State misses the retailer compliance rate goal established by the Secretary of Health and Human Services under section 1926 of such Act.

(c) The State is to maintain State expenditures in fiscal year 2004 for tobacco prevention programs and for compliance activities at a level that is not less than the level of such expenditures maintained by the State for fiscal year 2002, and adding to that level the additional funds for tobacco compliance activities required under subsection (a). The State is to submit a report to the Secretary on all fiscal year 2003 State expenditures and all fiscal year 2004 obligations for tobacco prevention and compliance activities by program activity by July 31, 2004.

(d) The Secretary shall exercise discretion in enforcing the timing of the State obligation of the additional funds required by the certification described in subsection (a) as late as July 31, 2004.

(e) None of the funds appropriated by this Act may be used to withhold substance abuse funding pursuant to section 1926 from a territory that receives less than \$1,000,000.

SEC. 214. In order for the Centers for Disease Control and Prevention to carry out international health activities, including HIV/AIDS and other infectious disease, chronic and environmental disease, and other health activities abroad during fiscal year 2004, the Secretary of Health and Human Services is authorized to provide

such funds by advance or reimbursement to the Secretary of State as may be necessary to pay the costs of acquisition, lease, alteration, renovation, and management of facilities outside of the United States for the use of the Department of Health and Human Services. The Department of State shall cooperate fully with the Secretary of Health and Human Services to ensure that the Department of Health and Human Services has secure, safe, functional facilities that comply with applicable regulation governing location, setback, and other facilities requirements and serve the purposes established by this Act. The Secretary of Health and Human Services is authorized, in consultation with the Secretary of State, through grant or cooperative agreement, to make available to public or nonprofit private institutions or agencies in participating foreign countries, funds to acquire, lease, alter, or renovate facilities in those countries as necessary to conduct programs of assistance for international health activities, including activities relating to HIV/AIDS and other infectious diseases, chronic and environmental diseases, and other health activities abroad.

SEC. 215. (a) In addition to the authority provided in section 214, in order for the Centers for Disease Control and Prevention to carry out international health activities, including HIV/AIDS and other infectious disease, chronic and environmental disease, and other health activities abroad during fiscal year 2004, the Secretary of Health and Human Services may exercise authority equivalent to that available to the Secretary of State in section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)).

(b) The Secretary of Health and Human Services shall consult with the Secretary of State and relevant Chief of Mission to ensure that the authority provided in this section is exercised in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) and other applicable statutes administered by the Department of State.

SEC. 216. The Division of Federal Occupational Health may utilize personal services contracting to employ professional management/administrative and occupational health professionals.

SEC. 217. (a) CMS PROGRAM MANAGEMENT ACCOUNT.—The amount otherwise provided by this Act for “Centers for Medicare and Medicaid Services—Program Management” is hereby reduced by \$98,000,000.

(B) MEDICARE CLAIMS PROCESSING FEE.—

(1) IN GENERAL.—Notwithstanding section 1842(c)(4) of the Social Security Act, each claim submitted by an individual or entity furnishing items or services for which payment may be made under part A or part B of title XVIII of such Act is subject to a processing fee of \$2.50 if the claim—

(A) duplicates, in whole or in part, another claim submitted by the same individual or entity; or

(B) is a claim that cannot be processed and must be returned by the medicare claims processing contractor involved to the individual or entity for completion or correction.

(2) DEDUCTION AND TRANSFER.—The Secretary of Health and Human Services shall deduct any fees assessed pursuant to paragraph (1) against an individual or entity from amounts otherwise payable from a trust fund under such title to such individual or entity, and shall transfer the amount so deducted from such trust fund to the Program Management account of the Centers for Medicare & Medicaid Services.

(3) AVAILABILITY.—Fees collected under this subsection shall remain available until expended. Such fees shall be available for obligation in a fiscal year only in the amount

specified in the appropriation Act for such fiscal year.

(4) WAIVER AUTHORITY.—The Secretary of Health and Human Services may provide for waiver of fees for claims described in paragraph (2) in cases of such compelling circumstances as the Secretary may determine.

(5) EXCLUSION OF FEES IN ALLOWABLE COSTS.—An entity may not include a fee assessed pursuant to this subsection as an allowable item on a cost report under the Social Security Act.

(6) EFFECTIVE DATE.—This subsection shall apply to claims referred to in paragraph (1) submitted on or after a date, specified by the Secretary of Health and Human Services, that is not later than 3 months after the date of the enactment of this Act.

SEC. 218. The amount appropriated in this Act for “Centers for Disease Control and Prevention—Disease Control, Research, and Training” is hereby reduced by \$49,982,000, to be derived from the amounts made available for administrative and related information technology expenses: *Provided*, That the Director of the Centers for Disease Control and Prevention shall determine the allocation of the reduction among Agency activities, and shall submit to the Committees on Appropriations a report specifying the proposed allocation.

#### TITLE III—DEPARTMENT OF EDUCATION EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965 (“ESEA”) and section 418A of the Higher Education Act of 1965, \$14,507,000,000, of which \$6,943,199,000 shall become available on July 1, 2004, and shall remain available through September 30, 2005, and of which \$7,383,301,000 shall become available on October 1, 2004, and shall remain available through September 30, 2005, for academic year 2004–2005: *Provided*, That \$7,172,971,000 shall be available for basic grants under section 1124: *Provided further*, That up to \$3,500,000 of these funds shall be available to the Secretary of Education on October 1, 2003, to obtain updated educational-agency-level census poverty data from the Bureau of the Census: *Provided further*, That \$1,365,031,000 shall be available for concentration grants under section 1124A: *Provided further*, That \$3,018,499,000 shall be available for targeted grants under section 1125: *Provided further*, That \$793,499,000 shall be available for education finance incentive grants under section 1125A: *Provided further*, That \$235,000,000 shall be available for comprehensive school reform grants under part F of the ESEA: *Provided further*, That from the \$9,500,000 available to carry out part E of title I, up to \$1,000,000 shall be available to the Secretary of Education to provide technical assistance to state and local educational agencies concerning part A of title I.

#### IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, \$1,238,324,000, of which \$1,073,000,000 shall be for basic support payments under section 8003(b), \$50,668,000 shall be for payments for children with disabilities under section 8003(d), \$44,708,000 shall be for construction under section 8007 and shall remain available through September 30, 2005, \$62,000,000 shall be for Federal property payments under section 8002, and \$7,948,000, to remain available until expended, shall be for facilities maintenance under section 8008.

#### SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by titles II, part B of title

IV, part A and subpart 6 of part D of title V, parts A and B of title VI, and parts B and C of title VII of the Elementary and Secondary Education Act of 1965 (“ESEA”); the McKinney-Vento Homeless Assistance Act; and the Civil Rights Act of 1964, \$5,797,637,000, of which \$4,296,772,000 shall become available on July 1, 2004, and remain available through September 30, 2005, and of which \$1,435,000,000 shall become available on October 1, 2004, and shall remain available through September 30, 2005, for academic year 2004–2005: *Provided*, That \$390,000,000 shall be for subpart 1 of part A of title VI of the ESEA: *Provided further*, That no funds appropriated under this heading may be used to carry out section 5494 under the Elementary and Secondary Education Act.

#### INDIAN EDUCATION

For expenses necessary to carry out, to the extent not otherwise provided, title VII, part A of the Elementary and Secondary Education Act of 1965, \$121,573,000.

#### INNOVATION AND IMPROVEMENT

For carrying out activities authorized by part G of title I, parts A, C, and D of title II, parts B, C, and D of title V, and section 1504 of the Elementary and Secondary Education Act of 1965, \$807,959,000: *Provided*, That \$74,513,000 for continuing and new grants to demonstrate effective approaches to comprehensive school reform shall become available on July 1, 2004, and remain available through September 30, 2005, and shall be allocated and expended in the same manner as the funds provided under the Fund for the Improvement of Education for this purpose were allocated and expended in fiscal year 2003: *Provided further*, That up to \$1,500,000 of the funds provided under the Advanced Credentialing program may be reserved by the Secretary to conduct an evaluation of the program.

#### SAFE SCHOOLS AND CITIZENSHIP EDUCATION

For carrying out activities authorized by subpart 3 of part C of title II, part A of title IV, and subparts 2, 3, and 10 of part D of title V of the Elementary and Secondary Education Act of 1965, \$820,068,000, of which \$138,949,000 shall become available on July 1, 2004 and remain available through September 30, 2005, and of which \$330,000,000 shall become available on October 1, 2004 and shall remain available through September 30, 2005 for academic year 2004–2005: *Provided*, That of the funds available to carry out subpart 3 of part C of title II, up to \$12,000,000 may be used to carry out section 2345: *Provided further*, That of the funds available for subpart 2 of part A of title IV, \$4,968,000, to remain available until expended, shall be for the Project School Emergency Response to Violence program to provide education-related services to local educational agencies in which the learning environment has been disrupted due to a violent or traumatic crisis.

#### ENGLISH LANGUAGE ACQUISITION

For carrying out title III, part A of the ESEA, \$685,515,000, of which \$560,543,000 shall become available on July 1, 2004, and shall remain available through September 30, 2005.

#### SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act, \$11,049,790,000, of which \$5,690,762,000 shall become available for obligation on July 1, 2004, and shall remain available through September 30, 2005, and of which \$5,072,000,000 shall become available on October 1, 2004, and shall remain available through September 30, 2005, for academic year 2004–2005: *Provided*, That \$11,400,000 shall be for Recording for the Blind and Dyslexic to support the development, production, and circulation of recorded educational materials: *Provided further*, That the amount for section 611(c) of

the Act shall be equal to the amount available for that section during fiscal year 2003 increased by the amount of inflation as specified in section 611(f)(1)(B)(ii) of the Act.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Assistive Technology Act of 1998, and the Helen Keller National Center Act, \$2,999,165,000.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), \$16,500,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), \$53,867,000, of which \$367,000 shall be for construction and shall remain available until expended: *Provided*, That from the total amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), \$100,600,000: *Provided*, That from the total amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, and the Adult Education and Family Literacy Act, and subpart 4 of part D of title V of the Elementary and Secondary Education Act of 1965, as amended, \$2,094,475,000, of which \$1,294,725,000 shall become available on July 1, 2004 and shall remain available through September 30, 2005 and of which \$791,000,000 shall become available on October 1, 2004 and shall remain available through September 30, 2005: *Provided*, That of the amount provided for Adult Education State Grants, \$70,000,000 shall be made available for integrated English literacy and civics education services to immigrants and other limited English proficient populations: *Provided further*, That of the amount reserved for integrated English literacy and civics education, notwithstanding section 211 of the Adult Education and Family Literacy Act, 65 percent shall be allocated to States based on a State's absolute need as determined by calculating each State's share of a 10-year average of the Immigration and Naturalization Service data for immigrants admitted for legal permanent residence for the 10 most recent years, and 35 percent allocated to States that experienced growth as measured by the average of the 3 most recent years for which Immigration and Naturalization Service data for immigrants admitted for legal permanent residence are available, except that no State shall be allocated an amount less than \$60,000: *Provided further*, That of the amounts made available for the Adult Education and Family Literacy Act, \$9,438,000 shall be for national leadership activities under section 243 and \$6,517,000 shall be for the National Institute for Literacy under section 242: *Provided further*, That \$175,000,000 shall be available to support the activities authorized under subpart 4 of part D of title V of the ESEA, of which up to 5 percent shall become available October 1, 2003, for evaluation, technical assistance, school net-

working, peer review of applications, and program outreach activities and of which not less than 95 percent shall become available on July 1, 2004, and remain available through September 30, 2005, for grants to local educational agencies: *Provided further*, That funds made available to local educational agencies under this subpart shall be used only for activities related to establishing smaller learning communities in high schools.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3 and 4 of part A, section 428K, part C and part E of title IV of the Higher Education Act of 1965, as amended, \$14,247,432,000, which shall remain available through September 30, 2005.

The maximum Pell Grant for which a student shall be eligible during award year 2004-2005 shall be \$4,050.

STUDENT AID ADMINISTRATION

For Federal administrative expenses (in addition to funds made available under section 458), to carry out part D of title I, and subparts 1, 3, and 4 of part A, and parts B, C, D and E of title IV of the Higher Education Act of 1965, as amended, \$120,010,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, section 121 and titles II, III, IV, V, VI, and VII of the Higher Education Act of 1965 ("HEA"), as amended, section 1543 of the Higher Education Amendments of 1992, title VIII of the Higher Education Amendments of 1998, section 117 of the Carl D. Perkins Vocational and Technical Education Act, and the Mutual Educational and Cultural Exchange Act of 1961, \$1,985,991,000, of which \$2,000,000 for interest subsidies authorized by section 121 of the HEA shall remain available until expended: *Provided*, That \$9,935,000, to remain available through September 30, 2005, shall be available to fund fellowships for academic year 2005-2006 under part A, subpart 1 of title VII of said Act, under the terms and conditions of part A, subpart 1: *Provided further*, That \$994,000 is for data collection and evaluation activities for programs under the HEA, including such activities needed to comply with the Government Performance and Results Act of 1993: *Provided further*, That notwithstanding any other provision of law, funds made available in this Act to carry out title VI of the HEA and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 may be used to support visits and study in foreign countries by individuals who are participating in advanced foreign language training and international studies in areas that are vital to United States national security and who plan to apply their language skills and knowledge of these countries in the fields of government, the professions, or international development: *Provided further*, That up to one percent of the funds referred to in the preceding proviso may be used for program evaluation, national outreach, and information dissemination activities.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), \$242,770,000, of which not less than \$3,600,000 shall be for a matching endowment grant pursuant to the Howard University Endowment Act (Public Law 98-480) and shall remain available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For Federal administrative expenses authorized under section 121 of the Higher Education Act of 1965, \$774,000 to carry out activities related to existing facility loans entered into under the Higher Education Act of 1965.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING PROGRAM ACCOUNT

The aggregate principal amount of outstanding bonds insured pursuant to section 344 of title III, part D of the Higher Education Act of 1965, shall not exceed \$357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title III, part D of the Higher Education Act of 1965, as amended, \$210,000.

INSTITUTE OF EDUCATION SCIENCES

For carrying out activities authorized by Public Law 107-279, \$500,599,000: *Provided*, That of the amount appropriated, \$185,000,000 shall be available for obligation through September 30, 2005.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, \$434,494,000, of which \$13,644,000, to remain available until expended, shall be for building alterations and related expenses for the relocation of Department staff to Potomac Center Plaza in Washington, DC.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, \$91,275,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, \$48,137,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased

by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

This title may be cited as the "Department of Education Appropriations Act, 2004".

#### TITLE IV—RELATED AGENCIES

##### ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, \$65,279,000, of which \$1,983,000 shall remain available until expended for construction and renovation of the physical plants at the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport.

##### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

###### DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, \$352,836,000: *Provided*, That none of the funds made available to the Corporation for National and Community Service in this Act for activities authorized by section 122 of part C of title I and part E of title II of the Domestic Volunteer Service Act of 1973 shall be used to provide stipends or other monetary incentives to volunteers or volunteer leaders whose incomes exceed 125 percent of the national poverty level.

##### CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2006, \$330,000,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

Of the amounts made available to the Corporation for Public Broadcasting for fiscal year 2004 by Public Law 107-116, up to \$80,000,000 is available for grants associated with the transition of public broadcasting to digital broadcasting, including costs related to transmission equipment and program production, development, and distribution, to be awarded as determined by the Corporation in consultation with public radio and television licensees or permittees, or their designated representatives; and up to \$96,000,000 is available pursuant to section 396(k)(10) of the Communications Act of 1934, as amended, for replacement and upgrade of the public television interconnection system: *Provided*, That section 396(k)(3) shall apply only to amounts remaining after allocations made herein.

##### FEDERAL MEDIATION AND CONCILIATION SERVICE

###### SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171-180, 182-183), including hire of passenger motor vehicles; for expenses necessary for the Labor-Management Cooperation Act of

1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. ch. 71), \$43,385,000, including \$1,500,000, to remain available through September 30, 2005, for activities authorized by the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a): *Provided*, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and other conflict resolution services and technical assistance, including those provided to foreign governments and international organizations, and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: *Provided further*, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: *Provided further*, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

##### FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

###### SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), \$7,774,000.

##### INSTITUTE OF MUSEUM AND LIBRARY SERVICES

For carrying out the Museum and Library Services Act of 1996, \$238,126,000 to remain available until expended.

##### MEDICARE PAYMENT ADVISORY COMMISSION

###### SALARIES AND EXPENSES

For expenses necessary to carry out section 1805 of the Social Security Act, \$9,000,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

##### NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

###### SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345, as amended), \$1,000,000.

##### NATIONAL COUNCIL ON DISABILITY

###### SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, \$2,830,000.

##### NATIONAL LABOR RELATIONS BOARD

###### SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, \$239,429,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 percent of the water stored or supplied thereby is used for farming purposes.

##### NATIONAL MEDIATION BOARD

###### SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, \$11,421,000.

##### OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

###### SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), \$10,115,000.

##### RAILROAD RETIREMENT BOARD

###### DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, \$119,000,000, which shall include amounts becoming available in fiscal year 2004 pursuant to section 224(c)(1)(B) of Public Law 98-76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds \$119,000,000: *Provided*, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

###### FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, \$150,000, to remain available through September 30, 2005, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98-76.

###### LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, \$101,300,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

###### LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than \$6,600,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided*, That none of the funds made available in any other paragraph of this Act may be transferred to the Office; used to carry out any such transfer; used to provide any office space, equipment, office supplies, communications facilities or services, maintenance services, or administrative services for the Office; used to pay any salary, benefit, or award for any personnel of the Office; used to pay any other operating expense of the Office; or used to reimburse the Office for any service provided, or expense incurred, by the Office.

###### SOCIAL SECURITY ADMINISTRATION

###### PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, \$21,658,000.

###### SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66,

as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, \$26,221,300,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For making benefit payments under title XVI of the Social Security Act for the first quarter of fiscal year 2005, \$12,590,000,000, to remain available until expended.

#### LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed \$15,000 for official reception and representation expenses, not more than \$8,241,800,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That not less than \$1,800,000 shall be for the Social Security Advisory Board: *Provided further*, That unobligated balances of funds provided under this paragraph at the end of fiscal year 2004 not needed for fiscal year 2004 shall remain available until expended to invest in the Social Security Administration information technology and telecommunications hardware and software infrastructure, including related equipment and non-payroll administrative expenses associated solely with this information technology and telecommunications infrastructure: *Provided further*, That reimbursement to the trust funds under this heading for expenditures for official time for employees of the Social Security Administration pursuant to section 7131 of title 5, United States Code, and for facilities or support services for labor organizations pursuant to policies, regulations, or procedures referred to in section 7135(b) of such title shall be made by the Secretary of the Treasury, with interest, from amounts in the general fund not otherwise appropriated, as soon as possible after such expenditures are made.

In addition, \$120,000,000 to be derived from administration fees in excess of \$5.00 per supplementary payment collected pursuant to section 1616(d) of the Social Security Act or section 212(b)(3) of Public Law 93-66, which shall remain available until expended. To the extent that the amounts collected pursuant to such section 1616(d) or 212(b)(3) in fiscal year 2004 exceed \$120,000,000, the amounts shall be available in fiscal year 2005 only to the extent provided in advance in appropriations Acts.

From funds previously appropriated for this purpose, any unobligated balances at the end of fiscal year 2003 shall be available to continue Federal-State partnerships which will evaluate means to promote Medicare buy-in programs targeted to elderly and disabled individuals under titles XVIII and XIX of the Social Security Act.

#### OFFICE OF INSPECTOR GENERAL (INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$24,500,000, together with not to exceed \$63,700,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

In addition, an amount not to exceed 3 percent of the total provided in this appropriation may be transferred from the "Limitation on Administrative Expenses", Social Security Administration, to be merged with this account, to be available for the time and purposes for which this account is available: *Provided*, That notice of such transfers shall be transmitted promptly to the Committees on Appropriations of the House and Senate.

#### UNITED STATES INSTITUTE OF PEACE OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, \$17,200,000.

#### TITLE V—GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

SEC. 504. The Secretaries of Labor and Education are authorized to make available not to exceed \$28,000 and \$20,000, respectively, from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed \$5,000 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed \$5,000 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

SEC. 506. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) If it has been finally determined by a court or Federal agency that any person in-

tionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or sub-contract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 507. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state: (1) the percentage of the total costs of the program or project which will be financed with Federal money; (2) the dollar amount of Federal funds for the project or program; and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

SEC. 508. (a) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for any abortion.

(b) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for health benefits coverage that includes coverage of abortion.

(c) The term "health benefits coverage" means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

SEC. 509. (a) The limitations established in the preceding section shall not apply to an abortion—

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds).

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).

SEC. 510. (a) None of the funds made available in this Act may be used for—

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.208(a)(2) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term "human embryo or embryos" includes any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.

SEC. 511. (a) None of the funds made available in this Act may be used for any activity

that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

SEC. 512. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity if—

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

SEC. 513. None of the funds made available in this Act may be used to promulgate or adopt any final standard under section 1173(b) of the Social Security Act (42 U.S.C. 1320d-2(b)) providing for, or providing for the assignment of, a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard.

SEC. 514. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 515. (a) The matter under the heading "Department of Education—Education for the Disadvantaged" in division G of Public Law 108-7 is amended—

(1) by striking "\$4,651,199,000" and inserting "\$6,895,199,000"; and

(2) by striking "\$9,027,301,000" and inserting "\$6,783,301,000".

(b) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 516. None of the funds made available by this Act to carry out the Library Services and Technology Act may be made available to any library covered by paragraph (1) of section 224(f) of such Act (20 U.S.C. 9134(f)), as amended by the Children's Internet Protections Act, unless such library has made the certifications required by paragraph (4) of such section.

SEC. 517. None of the funds made available by this Act to carry out part D of title II of the Elementary and Secondary Education Act of 1965 may be made available to any elementary or secondary school covered by paragraph (1) of section 2441(a) of such Act (20 U.S.C. 6777(a)), as amended by the Children's Internet Protections Act and the No Child Left Behind Act, unless the local educational agency with responsibility for such covered school has made the certifications required by paragraph (2) of such section.

The CHAIRMAN. Are there any points of order?

POINT OF ORDER

Mrs. JOHNSON of Connecticut. Mr. Chairman, I raise a point of order against section 217(B) on page 57, lines 7 through 25, and page 58, lines 1 through 24, of this bill, H.R. 2660, on the grounds that this provision violates clause 2(b) of House rule XXI be-

cause it is legislation included in a general appropriations bill.

The CHAIRMAN. Does anybody wish to be heard on the gentleman's point of order?

Mrs. JOHNSON of Connecticut. Mr. Chairman, I raise this point of order respectfully and regretfully, but it is important that this section be struck. In 2001, I helped author and pass in this House a requirement that providers be required as of this October to submit all Medicare claims electronically. Because most electronic billing systems eliminate inaccurate and duplicate claims, the user fee is unnecessary, as Medicare will get dramatically fewer mistakes after October. Harnessing a new claims processing and billing technology is preferable to using a punitive, per-claim tax to reduce mistakes.

In addition, current law gives small providers the leeway that they need. Hospitals with fewer than 25 full-time employees or a physician practice with fewer than 10 full-time employees are exempted from this requirement.

In sum, the current law that goes into effect October 1 covers this matter and provides the proper small business exemption. But in addition, the issue of what is a clean claim can be a very controversial issue and intermediaries have enormous power in this matter.

Mr. REGULA. Mr. Chairman, we concede the point of order. I am just trying to save some time here.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman, and I would be happy to work with him to see if we can resolve this problem, because I appreciate the gentleman's dedication to giving CMS the administrative funds they are going to need to implement some of the reforms. I look forward to working with the gentleman on that.

Mr. REGULA. Mr. Chairman, we concede the point of order, and we will work together to solve this problem.

The CHAIRMAN. The point of order is conceded, it is sustained, and the provision is stricken.

AMENDMENT NO. 5 OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer amendment No. 5.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. BEREUTER:

In the item relating to "DEPARTMENT OF HEALTH AND HUMAN SERVICES—AGENCY FOR HEALTHCARE RESEARCH AND QUALITY—HEALTHCARE RESEARCH AND QUALITY", insert before the period at the end the following:

: *Provided*, That, of the funds made available under this heading, \$12,000,000 shall be for the conduct of research on the comparative effectiveness, cost-effectiveness, and safety of drugs, biological products, and devices under subparagraph (B) of section 912(b)(2) of the Public Health Service Act (42 U.S.C. 299b-1(b)(2))

The CHAIRMAN. The gentleman from Nebraska (Mr. BEREUTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I yield myself 4 minutes.

(Mr. BEREUTER asked and was given permission to revise and extend his remarks.)

Mr. BEREUTER. Mr. Chairman, this amendment requires the Agency for Healthcare Research and Quality to spend \$12 million for the conduct of research on the comparative effectiveness, cost effectiveness, and safety of drugs, biological products and devices under their existing authorization.

This is a priority-setting amendment that is intended to ensure that objective scientific research on prescription drugs continues or is accelerated in fiscal year 2004. This, unfortunately, may not be an increase in spending for this purpose, but the \$12 million figure is the amount the agency estimates it currently spends on this effort to assess the efficacy of drugs.

This amendment does not require new money to be spent. Instead, the amendment earmarks \$12 million for the total amount yielded to what is called the AHRQ for such research. This Member wishes it could be more; and in fiscal year 2005, it should, pending good results, be dramatically increased.

The amendment also demands accountability by requiring the agency to actually and productively spend such funds on this initiative.

Mr. Chairman, while the Food and Drug Administration is charged with assuring the safety of pharmaceuticals that are approved for the marketing, clinicians, patients, health plans, insurers, and those financing health care services need additional help in making informed choices among pharmaceuticals. They need objective scientific information regarding the effectiveness, quality, and cost effectiveness of new drugs in comparison with existing alternatives, especially when the new drugs cost much more than those that are now on the market.

While the responsibility for developing this type of scientific research was assigned to AHRQ and reinforced by two different authorizing acts, the Congress has never provided AHRQ with the adequate resources necessary to carry out that important mission. Additional pharmaceutical research conducted by the AHRQ would also be beneficial, for example, to the Medicaid program.

Specifically, AHRQ's research can help State Medicaid programs better target their health care dollars. By a research initiative, for example, the AHRQ recently demonstrated that children with a common ailment, middle ear infection, recovered just as effectively after treatment by one of several antibiotics as they do from treatment by more expensive brand-name products. This is precisely the type of information that State Medicaid programs need to guide coverage decisions on a whole range of medical conditions, but

by and large such objective research findings do not exist for most health conditions.

Additional research on anti-inflammatory drugs, cholesterol treatment drugs, and drugs to treat other medical conditions would also be beneficial in the development of Medicare prescription drug benefits. Perhaps the AHRQ should conduct research on the clinical appropriateness and cost effectiveness of the 50 drugs most frequently prescribed for senior citizens. The findings would certainly be interesting; and this Member believes that, overall, it would result in greater cost effectiveness, greater drug efficacy, and, therefore, lower cost to the patients and the American taxpayers.

Mr. Chairman, Americans deserve the best health care for their dollar. The goal of this amendment is to provide clinicians, patients, health plans, insurers, and others financing health care with the credible, objective information on the benefits, risks, and costs of prescription drugs so they can make informed decisions about the prescriptions they consume and prescribe.

Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I seek the time in opposition to the amendment. However, I am willing to accept the gentleman's amendment with the understanding that in preparation for conference we will learn more about its impact on the administration and the Members' priorities.

Mr. Chairman, I yield back the balance of my time.

Mr. BEREUTER. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, in deference to all, and the time constraints we are under, I will not take the full minute, but I do want to say that often very small amendments are extremely important. This amendment is absolutely key to reducing the costs of drugs.

There are many expensive products on the market that are no better than aspirin, and we need to be able to demonstrate that and provide senior citizens and all Americans with that information so they can choose the most cost-effective, medically effective pharmaceutical for their particular needs. I commend the gentleman from Nebraska on his amendment.

Mr. BEREUTER. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Nebraska has 1 minute remaining.

Mr. BEREUTER. Mr. Chairman, I yield myself the balance of my time to, first of all, thank the gentlewoman for her comments, and I also thank the chairman for his comments and his remarks regarding securing information about the impact.

I do believe that the research estimate of \$12 million probably includes not only contract services but also direct grants. I want to make sure that we have not too specifically prescribed

the authorizing subsections so that we cover all the contracting and the grants that are made for this purpose. So it would be good to look at that, because last-minute information coming to us may have provided that when we were actually too very specific by specifying the subsections.

With that information, Mr. Chairman, I ask Members for their support on the amendment.

Mr. NETHERCUTT. Mr. Chairman, I support the gentleman from Nebraska's efforts to provide Americans with information in order to make educated decisions about their health care needs. However, I have concerns with his amendment. Though the gentleman's amendment does not change the Agency for Healthcare Research and Quality basic statutory authority, it does increase funding for comparative and cost-effectiveness studies by the AHRQ. I am fearful that by earmarking new funds for this explicit purpose, it may set AHRQ in the wrong direction.

I support efforts to reduce prescription drug costs by educating patients about what medicines best treat their ailments, allowing individual patients to make their own decisions about their health care needs. However, I fear that by promoting this amendment as a way to cut prescription drug costs it will turn comparative and cost-effectiveness studies into a means of implementing health care rationing by federal agencies such as the Centers for Medicare and Medicaid Services. An agency that calls itself a "big dumb price fixer." The answer to reducing health care costs is not by limiting patient access to the treatments they need.

I am concerned that government-run cost-effectiveness studies being promoted as a cost control tool will allow CMS to use these studies to pick and choose which medicines should and should not be available to patients. Making determinations in this way are biased against newer treatments that can cost more up-front but save more over time.

In short, this amendment encourages the federal government to direct medical care and promotes a "one-size-fits-all" approach to medicine which is bad for patients.

Mr. BEREUTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. BEREUTER).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. RAHALL

Mr. RAHALL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. RAHALL:

At the end of the bill (before the short title), insert the following:

SEC. \_\_\_\_ . None of the funds made available in this Act may be used to implement amendments to Department of Labor Mine Safety and Health Administration regulations parts 70, 75, and 90 of title 30, Code of Federal Regulations, as proposed on March 6, 2003.

The CHAIRMAN. Points of order are reserved; and pursuant to the order of the House of today, the gentleman from West Virginia (Mr. RAHALL) and a

Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume; and I do offer an amendment, which is printed in the RECORD as No. 6.

Mr. Chairman, I rise in recognition this afternoon of the ultimate sacrifice that thousands of our Nation's coal miners who have perished from the crippling disease known as pneumoconiosis, or black lung, have made to the energy security of this Nation.

Today, I rise to extend condolences to the families of coal miners who died as a result of years of inhaling coal dust in our Nation's mines. Today, I rise to give hope to those who on this day descend deep into the Earth to produce a coal which fostered the industrial revolution in this country and which now fires the technological revolution. I rise in humble gratitude to them, and I say, thank you.

And I rise in anger as well, Mr. Chairman, because despite the fact that the Congress in 1969 passed landmark legislation to put an end to black lung disease contracted over years of inhaling respirable coal dust in the mines, annually around 1,400 miners still perish from this disease.

□ 1515

Yet this administration, the Bush administration, incredibly has proposed a regulation which would allow a four-fold increase of respirable dust in the coal mines. If made final, that regulation would directly translate into more deaths among our Nation's coal miners.

I have asked that this proposed regulation be withdrawn. The United Mine Workers of America have asked that it be withdrawn. Hundreds, if not thousands, of rank-and-file miners across this country have asked that these regulations be withdrawn.

In response, the administration has simply extended the public comment period. It is not going to withdraw these regulations. And why would it when the Assistant Secretary of Labor in charge of this issue was the very person who petitioned for these regulations when he served in the private sector? Imagine that.

Today I hope to give the coal miners a fighting chance by offering this amendment to block the Department of Labor from finalizing these ill-conceived proposed regulations. Enough is enough. Over 55,000 coal miners perished from black lung between 1969 and 1990, and still today 1,400 a year pass away as a result of it.

The poster to my right clearly illustrates what a coal miner faces from black lung. To the left is a healthy lung tissue. On the right, the far right, is a tissue sample of a 40-year-old coal miner. Compare that to the sample in the middle of a 90-year-old person.

To quote from the Louisville Courier-Journal which once described this disease in this manner, "It is as if the Titanic sank every year, and no ships

came to the rescue. While that long-ago disaster continues to fascinate the Nation, the miners slip into cold, early graves almost unnoticed.”

This amendment would prohibit the Department of Labor from finalizing these proposed rules while allowing continued research and development on devices such as personal dust monitors. I want to emphasize that last point. This amendment still allows the continued research and development on devices supported by both the industry and the union known as PDMs, or personal dust monitors. I am not stopping research and development of those devices from continuing. The intent of this amendment is to cause MSHA to withdraw the proposed rule and re-promulgate it in accordance with the letter and intent of the Mine Safety Act in order to improve the dust sampling and compliance regulatory program. I urge a yes vote on the Rahall amendment.

Mr. Chairman, I reserve the balance of my time.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair must remind Members that the use of audible electronic devices on the House floor is prohibited.

Mr. REGULA. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Ohio (Mr. REGULA) is recognized for 10 minutes.

Mr. REGULA. MR. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Chairman, the amendment before us is unnecessary and potentially harmful. Simply put, it would restrict the Mine Safety and Health Administration's ability to protect miners from coal dust exposure until October 2004.

The proposed amendment is unnecessary because the Agency has already moved to suspend regulatory action on these rules until testing of revolutionary coal dust monitoring technology is completed. As a result, this amendment is not only needless, but could work to delay improved coal dust rules for perhaps several years to come, and I think it must be rejected. To do otherwise would be a great disservice to the miners these rules are designed to protect without any logical purpose.

Let us look at the facts. On June 24, 2003, the Agency suspended its proposed rule in this area. The reason for the delay is clear. The first field test of new coal dust monitoring technology, called personal dust monitors, showed genuine promise, so much so that the PDMs could represent a potential revolution in monitoring miners' exposure to coal dust, and MSHA concluded that additional tests should be conducted before moving forward on this proposed rule.

This is more than lip service. This appropriations bill already provides \$250,000 to purchase 25 additional PDMs for testing in underground mines, and

this additional testing is supported by both the mining industry and the miners' union. Most importantly, I have been assured that until the testing provides sufficient, reliable information in this area, no further regulatory action is to be taken.

The Agency's actions are reasonable and prudent because significant portions of the coal dust rules could be affected if PDMs prove to be as effective as early tests might indicate. This testing will take time, and that is why the Agency will not move forward with this testing until they have more reliable data.

Unfortunately, the amendment would prevent MSHA from acting on this issue and could have the unintended consequence of delaying a new rule that would utilize PDMs to their fullest potential.

So for these reasons I would hope Members would join me in rejecting this amendment. The Agency has suspended its proposed rule to implement further testing of PDMs, and this should be more than adequate to address any concern over the implementation of these new devices.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

I would add that we have money in the bill to study these, and I would hope that the gentleman would withdraw his amendment. It really is unnecessary in light of the Agency's action. They received a lot of negative comments on the proposed rule, and for that reason have withdrawn it.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

I appreciate what the gentlemen are stating. In response to the gentleman from Ohio (Mr. REGULA), there is funding for these PDMs. Research and development is provided elsewhere in the Department of Labor budget. It is under the budget for NIOSH.

In regard to what the gentleman from Ohio (Mr. BOEHNER) and the gentleman from Ohio (Mr. REGULA) have said, MSHA did not suspend the proposed rule. I know what they stated. They stated they were suspending the proposed rule in a press release. That is not the case. The notice of this action in the Federal Register, and that is what counts, what is said in the Federal Register, the notice of this action in the Federal Register simply notes that the Agency was keeping the comment period open until further notice. It is not stated as a suspension in the Federal Register.

What MSHA said in a press release does not match the facts, the reality, on the other hand as it appeared in the Federal Register. So it is not a suspension. There is no legal basis for suspending a proposed rule, and it cannot be done. In its guide for Federal agencies, the Office of the Federal Register advises that the term "suspend" applies only to blocking enforcement of existing final rules. The term does not apply to proposed rules. When agencies want to halt action on proposed rules,

according to the guide, they withdraw the rules; and that has not occurred here. These proposed rules have not been withdrawn, and that is why my amendment is seeking to force the issue.

In regard to further research and development into the PDMs, as I clearly stated in my opening comments on this amendment, I am in no way blocking continued research and development into the development of these PDMs. Both the unions and the companies want this research to continue. My amendment does not block that research.

The amendment blocks MSHA from finalizing the proposed rule. It does not restrict MSHA from engaging in any other activity related to the proposed rule other than making it final. Second, there is nothing in the proposed rule that involves funding R&D into PDMs. The proposed rule does not contain funding, and if made final would not provide funds for PDM deployment. So for that reason I think my amendment is on solid ground, and I would urge the adoption thereof.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Chairman, I would like to ask a question. As I listened to the remarks of the gentleman from West Virginia (Mr. RAHALL), I was struck by something the gentleman said. Did I hear that the Assistant Secretary of the Department of Labor who is in charge of the proposed rule regarding coal dust rules was the very person who petitioned for these regulations when he served in the private sector?

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. STRICKLAND. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, the gentleman from Ohio is correct. The Assistant Secretary of Labor for Mine Health and Safety, David Lauriski, was the general manager of a coal company known as Energy West, and was the very person who filed in September 1997 a petition asking for the rulemaking he is now in charge of administering.

Mr. STRICKLAND. Mr. Chairman, that is incredible. This House should know of what I think is a direct conflict of interest. Does the gentleman have evidence to support what he is saying?

Mr. RAHALL. Mr. Chairman, I do. The Department of Labor's March 6 Federal Register notice publishing these proposed rules notes that Energy West petitioned the Secretary of Labor on this matter during September 1997 and states on page 10800, "This proposed rule responds to Energy West's petition for rulemaking."

We obtained a copy of the petition, which I have right in front of me, and lo and behold, it is signed by David Lauriski in his then-capacity as general manager of Energy West.

Mr. STRICKLAND. Mr. Chairman, reclaiming my time, I thank the gentleman for exposing this conflict of interest. The fact of the matter is black lung disease continues to be a problem. It has not been eradicated. Over 1,400 coal miners still perish this year in this country, and here we have an administration which is pushing a proposed rule which could increase dust levels in the mines fourfold.

This is a case of the fox guarding the henhouse.

In closing, I believe this is an insult to the working people of America. It can spell certain death to some of the bravest souls in this country. We should support this amendment so this proposed rule is withdrawn and done right.

Mr. RAHALL. Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I have absolute proof that Dave Lauriski comes from the private sector, and I am delighted that he comes from the private sector to bring to us new and innovative ideas on health and safety for our miners.

I must oppose this amendment, and let me say that I do so, I believe, for the sake of the health and safety of American miners.

Any attempt to slow down the progress of what could be groundbreaking safety technology or hinder its widespread use is just wrong, and that is what this amendment does. This amendment basically is unnecessary because the Mine Safety and Health Administration acted on July 24 to suspend the proposed rule referred to in the Rahall amendment. I do not know the legal mumbo-jumbo, I just know they have absolutely postponed this rule for very good reasons. If we pass this amendment, it is not going to allow us, perhaps, to write a rule that involves the new technology that could be the technology that saves a lot of lives. This amendment carries with it certain unintended consequences that is going to run counter to the interests of promoting workers' health.

MSHA made the decision to postpone the implementation of the rule because of the first field test of new coal dust technology, called personal dust monitors, PDMs, which are very expensive and could be very life-saving for miners. These tests showed such genuine promise that MSHA concluded that additional tests were needed before moving forward with the proposed rule. We need to do the study, do the testing and get this technology, and then be able to write the rule to put it into place.

Both the mining industry and unions both supported this decision. In fact, the Mine Workers president sent out a press release the day after MSHA postponed its rule applauding that decision. Clearly, because the results of these field tests could cause MSHA to rewrite sections of its rule, to incor-

porate the technology of PDMs, MSHA needs the test results before it can move forward, and then it does need to be able to move forward. Again, that is not a delay. It is a positive move intended to advance technology that hopefully will be great for the mining community. Please do not confuse an arbitrary delay with a positive effort to move forward on technological advance.

In sum, this amendment is unnecessary. In fact, it represents a regulatory overkill basically without any clear benefit. Perhaps more importantly, this amendment could prevent MSHA from completely utilizing the new technology. Vote against this amendment because it is a positive vote for progress.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I cannot allow obfuscation or dilatory diversion tactics from some in the majority to go unanswered.

□ 1530

This is about increasing by four-fold the dust level in our Nation's coal mines, further putting coal miners at risk of losing their lives.

The gentleman that just responded obviously was not listening to my previous two comments. These proposed rules have not been suspended, as MSHA said in a press release, because I have the Federal Register right here in front of me which says exactly the opposite of what their own press release said. So the question here is about protecting some of the bravest souls in America who are laboring deep underground to produce our Nation's coal which provides over 50 percent of our electricity.

It is not about trying to defend some former company official who is now at the Department of Labor in charge of this exact same rulemaking that he tried to change when he was in the private sector. This is about increasing by four-fold the amount of dust levels in our Nation's coal mines, not what was intended by any act that this Congress has ever passed. It is a tragedy. It angers me, and here a gentleman from some other region of the country that I am sure does not have many coal mines in his district to come to the floor and make such defense of such defenseless acts of this administration is truly incomprehensible. It is mind boggling, and to see him make such comments and then walk off the floor without even hearing and obviously was not even here to hear the previous rebuttal to what the charges he is making that were handed to him by some coal company downtown. It is absolutely mind boggling that some of the majority would try to pull the wool over the American people's eyes.

I would hope that those who have any comprehension of what it is like in our Nation's coal mines, who have ever visited a coal mine, who have ever talked to a coal miner and looked into his

eyes will vote for this Rahall amendment to further protect him from this administration.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Chairman, I know we do two things here: we do politics, and we do public policy. The fact is that MSHA has suspended and/or withdrawn the regulation, and the gentleman's amendment says that MSHA cannot promulgate a new regulation until October of 2004. The hope is that these new personal dust monitors, this new technology will in fact continue to show the successes that it has so that MSHA can continue with the regulatory efforts and to get their new technology into the workplace as soon as possible.

But under the gentleman's amendment, MSHA would be prohibited until October, 2004, from proceeding. I do not think that is in the right light. I think what we are seeing here is some coal politics on the floor of the House. I think it is unfortunate. This is commonsense policy coming from MSHA. We ought to congratulate them for the wisdom in suspending what they were going to do to look at this new technology. But if it works, why would we want to wait until October of 2004 to implement it? I would urge my colleagues to reject the amendment.

Mr. REGULA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. RAHALL).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. RAHALL. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause six of rule XVIII, further proceedings on this amendment offered by the gentleman from West Virginia (Mr. RAHALL) will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. MANZULLO

Mr. MANZULLO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. MANZULLO:

At the end of the bill (before the short title), insert the following:

SEC. \_\_\_\_ . None of the funds made available in this Act may be used—

(1) to acquire manufactured articles, materials, or supplies unless section 2 of the Buy American Act (41 U.S.C. 10a) is applied to the contract for such acquisition by substituting "at least 65 percent" for "substantially all"; or

(2) to enter into a contract for the construction, alteration, or repair of any public building or public work unless section 3 of the Buy American Act (41 U.S.C. 10b) is applied to such contract by substituting "at least 65 percent" for "substantially all".

The CHAIRMAN. All points of order are reserved.

Pursuant to the order of the House today, the gentleman from Illinois (Mr. MANZULLO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Chairman, I yield myself such time as I may consume.

The purpose of this amendment is to increase the content requirement of the Buy American Act from 50 percent to 65 percent. This is a very simple amendment. It recognizes the fact that America has a tremendous problem with regard to our loss of our manufacturing base. We are down to about 10 percent of our workforce that is actively engaged in manufacturing. Each year that falls by several percentage points. It is massive, 6½ percent nationwide. And the congressional district that I represent, Rockford, Illinois, is at 11 percent and possibly even more because of the huge manufacturing base. Something has to be done in order to keep what manufacturing we have in this country. So why not take the billions of dollars that we use in procurement by the Federal Government and say, as we look at the stuff that the Federal Government buys, why not at least 65 percent of that be bought in America.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Who seeks time in opposition?

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. Mr. Chairman, I yield such time as she may consume to the gentleman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I understand the gentleman is withdrawing the amendment, but I do believe in the course of looking at what is occurring in America with this enormous unemployment rate I think the gentleman's amendment is extremely sensible and hopefully this idea of ensuring that even the Federal Government is concerned about products being produced in America and thereby creating jobs in America and as I know the gentleman's leadership on the Committee on Small Business helping small businesses which are prolific in all of our districts and certainly in the 18th district, I would certainly hope that we have an opportunity to ensure that we are front and center on creating and buying products here in the United States and to be able to fill in some of the gaping holes. Of course, that is not the only way we can do so, but the gaping holes with respect to this very high unemployment rate must be addressed! And I thank the gentleman for yielding.

Mr. MANZULLO. Mr. Chairman, I withdraw the amendment.

The CHAIRMAN. Does the gentleman from Ohio (Mr. REGULA) seek time in opposition?

Mr. REGULA. Mr. Chairman, I was just going to commend the gentleman.

I think there is merit to it, but I understand he is withdrawing it.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. TANCREDO

Mr. TANCREDO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TANCREDO:

Page 62 line 21, after the dollar amount, insert the following: "increased by \$5,000,000".

Page 63 line 5, after the dollar amount, insert the following: "increased by \$5,000,000".

Page 68 line 2, after the dollar amount, insert the following: "reduced by \$5,000,000".

The CHAIRMAN. All points of order are reserved.

Pursuant to the order of the House today, the gentleman from Colorado (Mr. TANCREDO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, I yield myself such time as I may consume.

Our schools are supposed to be safe havens, places where our children go to learn, places free from danger. For the most part, that is exactly what they are. As we have seen so many times over the last few years, our schools can sometimes bear witness to unspeakable tragedies. Names of communities that were once comfortably anonymous, like Pearl, Mississippi; West Paducah, Kentucky; Jonesboro, Arkansas; and most recently Red Lion, Pennsylvania; and of course my hometown of Littleton, Colorado, are now burned forever in American consciousness. Since 1996, at least 25 school shootings have occurred, leaving at least 48 people dead and 110 wounded. Countless others will be scarred by these tragedies for life. The phenomenon of school violence has touched not only those of us who live in places like Littleton, but everyone who has watched these heartbreaking catastrophes unfold on television.

Mr. Chairman, my amendment would shift \$5 million within title III of the bill from the \$1.9 billion Higher Education section, to the Project School Emergency-Response to Violence Program, Safe Schools and Citizenship Education. As drafted, the bill currently funds this program at \$5 million, or about one half of the President's 2004 budget request. My amendment, if adopted, would fund the program at the level called for in the President's budget. This program makes available short- and long-term assistance in the form of both immediate and extended services.

Mr. Chairman, it is my understanding that the \$5 million that I am attempting to shift from the Higher Education-Improvement of Postsecondary Education program was included above and beyond the President's request and that sufficient funds are available in other program accounts to meet the administration's

identified needs in this area. I ask for a "yes" vote on the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. REGULA. Mr. Chairman, we are prepared to accept this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. TANCREDO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ALLEN

Mr. ALLEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ALLEN:

At the end of the bill, insert after the last section (preceding the short title) the following:

SEC. \_\_\_\_\_. None of the funds made available in this Act may be used to enforce any requirement that a school be identified for improvement, corrective action, or restructuring under section 1116 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316 et seq.), or to otherwise implement any penalty or sanction applicable to a State, a State educational agency, a local educational agency, or a school under such part A, if the amount appropriated in this Act for the purpose of carrying out such part A for fiscal year 2004 is less than \$18,500,000,000, as authorized to be appropriated for such purpose in section 1002(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6302(a)).

The CHAIRMAN. Points of order are reserved.

Pursuant to the order of the House today, the gentleman from Maine (Mr. ALLEN) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, this amendment would prohibit the Department of Education from penalizing a school for failing to meet the requirements of the No Child Left Behind Act unless that school receives Federal aid at the full authorized level. With the No Child Left Behind Act, Congress struck a grand bargain with our communities' schools. We asked schools to meet critical accountability standards, and in return we promised them Federal aid to help make those standards a reality.

But the underlying bill, the Labor-H bill, H.R. 2660, provides essentially woefully insufficient funds for local school districts and States to meet those requirements. Congress is simply not fulfilling our share of the burden. We are not living up to our end of the bargain and the difference is \$6.15 billion in fiscal 2004 alone. Fiscal 2004 alone, the shortfall here below what was authorized under the No Child Left Behind Act was \$6.15 billion. That is impacting our States and municipalities in dramatic ways. Back home in Maine, wherever I go, whenever I talk to educators, I always hear the same thing; you have not fully funded special education. We are supporting that

at the State level and at the Federal level, and now we get the mandates of No Child Left Behind and we have another burden.

States right now are in their worst budget crisis since World War II, and they are struggling to cope with these unfunded Federal mandates, particularly in education. As a result, what is happening in Maine and around the country is that property taxes are going up. The burden is simply being passed down to the local property taxpayer. In Maine, 50 percent of the State budget is education, and in Maine municipalities between 50 percent and 75 percent of the municipal budgets are education. And we at the Federal level are simply making their burden much worse. This amendment is not intended to weaken the standards laid out in the No Child Left Behind Act. I joined with most of my colleagues on this side of the aisle, the bipartisan majority, in supporting the accountability standards of the No Child Left Behind Act, and we believe still that our schools will benefit from these standards, but only if they receive the promised money.

This amendment simply provides a respite during fiscal year 2004 for schools struggling to comply with the law without full Federal assistance. And let me just be clear about this. The way the amendment reads is that none of the funds made available in the act may be used to enforce any of the penalties under No Child Left Behind against municipal or State bodies if the Congress appropriates for this act less than \$18.5 billion. That is the amount that was authorized to be appropriated. So if our appropriators do not fully fund No Child Left Behind, then this amendment provides that we cannot impose penalties on so-called failing schools. This amendment will be a real boon to States because they are struggling so much now with so many other costs and challenges in their budget, and this is one way of saying to them the Federal Government is not going to come down and impose penalties for failing to meet an education mandate that the Congress of the United States has not fully funded.

I urge my colleagues to support the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BOEHNER. Mr. Chairman, I claim the time in opposition to the gentleman's amendment.

The CHAIRMAN. The gentleman from Ohio (Mr. BOEHNER) is recognized for 15 minutes.

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume.

This amendment is a sad attempt to return to the days of spending billions and billions of dollars and getting nothing in return. Since 1965, the Federal Government has spent over \$300 billion in K through 12 education programs, and what have the results been? Zero. Nothing. And we worked in a bi-

partisan way on both sides of the aisle to bring real accountability to our schools to ensure that no child was left behind, and the agreement we made was that we would provide sufficient funding to put this into effect and we have. We can look at the \$1.2 billion increase in title I two years ago, the \$1.3 billion increase last year, the \$666 million increase this year.

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Or how about the almost \$400 million that we have appropriated each of the 3 years to actually help the States implement the test, and the GAO came along and suggested a study on my behalf and others' that said that the almost \$400 million we are appropriating annually is sufficient money for the States to develop and implement the test.

What this really is is the first big step in the direction of making more excuses, more excuses why we cannot educate every child in America. We have been down this path before, and we have really been down the path the last 20 years. There have been all kinds of attempts at reforming our schools the last 20 years, and guess what happened? Somewhere along the way it got to be too tough. It got to be too difficult. "Oh, do not hold us accountable." And what happened? We have backed away every single time in virtually every single State.

The night that this bill was signed into law, I was over at Mount Vernon with the Secretary of Education, meeting with the 50 school chiefs from around the country who were charged with implementing this. I congratulated them on their service to education and the great commitment they were making to kids, and I talked about the heavy lifting that was going to be involved in implementing No Child Left Behind.

I also told them that, for the first time, do not come and ask the Federal Government for waivers. In the 1994 act, which many of the things that we called for in No Child Left Behind were enacted in 1994, in January of 2001, when the Bush administration took office, exactly 11 States were in compliance with the 1994 act.

Right now we are at the most historic moment of the Federal involvement in education, because right now all 50 States and the District of Columbia and Puerto Rico are in compliance with the new law. They were all required to have their State accountability plans in place and submitted to the Department by January, and the Department was to have all of them approved. And the Department of Education here in Washington sat down with virtually every State to work through their accountability plan and to work to make sure that we were not unnecessarily upsetting what was already happening in the States. There was an agreement and a celebration at the White House several weeks ago to

celebrate this accomplishment of having all of the States in compliance.

Now, could we spend more money? Yes. Are the States in difficult times? Yes. But I want to ask all of you, are we going to blink again? We have blinked so many times over the course of the history of this country because it was too hard to educate all of our kids, and I, for one, and I think the President and I think my good friend on the other side of the aisle, the gentleman from California (Mr. GEORGE MILLER), and TED KENNEDY in the other body have locked arms to say we are not going to blink.

We are not going to blink. The lives of poor kids in our country who get shuffled from one grade to the next will continue as they are if we blink. We all know what happens in our local schools. They move them from one grade to another, whether they learn anything or not. Kids graduate that cannot read their diploma. At some point in America, somebody has to stand up and say, enough is enough.

I would suggest to you that we are spending an additional \$2.2 billion in this appropriation bill to fund elementary and secondary education programs. We are continuing to keep our commitment, and I would hope that my colleagues would stand up today and say, for the sake of these kids and the sake of poor kids in America, we are not going to blink again.

Mr. Chairman, I reserve the balance of my time.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The Chair would remind Members not to characterize the positions of Members of the Senate.

Mr. ALLEN. Mr. Chairman, I yield myself 1 minute to respond.

Mr. Chairman, wherever I go in the State of Maine, the school districts that are in my district and across the State, they are not looking just at the cost of developing the test, though it is pretty clear that they do not have the money to do that. They are not looking just at the cost of developing the test, they are looking at the cost of how to operate the test, and they are also faced with teacher quality mandates that are a real burden.

The General Accounting Office has estimated that for fiscal year 2004, that the administration requested \$390 million, \$182 million below State 2004 expenditures as estimated. What we are talking about here in different categories, and that is just one, is a failure of the Federal Government to meet the actual amount that our States and local municipalities will have to spend.

Mr. Chairman, I yield 3 minutes to gentleman from Kansas (Mr. MOORE), who has worked with me on this amendment and who has other legislation pending along these lines.

Mr. MOORE. Mr. Chairman, I thank the gentleman for yielding me time.

More than 27 years ago Congress made a promise to our local school