

this bill. We put aside the stem cell issue which I very much wanted to have resolved. We did so in the interest of concluding this bill. We have already started the conferencing issues with both staffs meeting early tomorrow afternoon and Members meeting a little later tomorrow afternoon.

From our experience in the past, we have seen how difficult it is to conference this bill, so we are moving right ahead, and it would be my hope, with the example we have set with this complicated appropriations bill—on time, with people withdrawing matters to try to expedite the process—that we would move ahead and complete our work by November 16, which is when we should finish, and we can go home and take care of business in our States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I yield to my friend from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the Senator for yielding. I want to respond in kind to my good friend and ranking member, Senator SPECTER, and thank him and thank all of his staff for a very great working relationship that we have had over many years, especially this year.

We have completed our bill in pretty good time. Now we have to go to conference. I am convinced we can have a decent conference and get this bill back, as Senator SPECTER said, so we will have it done before we go home for Thanksgiving. So I again thank Senator SPECTER and his staff for a great working relationship. I especially thank all of the staff: Bettilou Taylor, Mary Dietrich, Sudip Parick, and Emma Ashburn. I also thank Ellen Murray, Jim Sourwine, Erik Fatemi, Mark Laisch, Adam Gluck, Adrienne Hallett, Lisa Bernhardt, and Carol Geagley. A lot of them put in a lot of hours early this year putting this bill together.

We have a great bill. It meets the needs of Americans and labor, health and human services, education, and biomedical research. We have met our obligations. This is the bill that helps lift up all Americans, helps address the needs of our human infrastructure in this country, and I believe we have met that obligation to the people of this country in this bill.

I thank the Senator for yielding me this time.

ORDER OF PROCEDURE

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that upon disposition of the Labor-HHS bill, the Senate proceed to executive session to consider Executive Calendar No. 512, that we vote immediately, and that upon disposition of the nomination, the President be immediately notified of the Senate's ac-

tion and the Senate return to legislative session.

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

UNANIMOUS CONSENT AGREEMENT—H.R. 2944

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that following the second vote in this series; that is, the judicial nomination, the Senate Appropriations Committee be discharged from consideration of H.R. 2944, the D.C. appropriations bill; that the Senate then proceed to its consideration; that immediately after the bill is reported, the majority manager or her designee be recognized to offer the Senate committee-reported bill as a substitute amendment; that the amendment be considered agreed to and the motion to reconsider be laid upon the table; and that the bill as amended be considered as original text for the purpose of further amendment, with no points of order being waived by this agreement.

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

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—Continued

Mr. REID. Mr. President, for Members, we are going to have two rollcall votes now, followed by taking up the next to the last appropriations bill of this year, the D.C. appropriations bill. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from Georgia (Mr. MILLER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 10, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—89

Akaka
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Burns
Byrd

Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo

Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feinstein
Frist
Graham

Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu

Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Roberts
Rockefeller

Santorum
Sarbanes
Schumer
Shelby
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—10

Allard
Bunning
Feingold
Fitzgerald

Gramm
Helms
Nickles
Sessions

Smith (NH)
Voinovich

NOT VOTING—1

Miller

The bill (H.R. 3061), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 3061) entitled "An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2002, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause and insert:

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, 2002, 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, 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 the Workforce Investment Act and the National Skill Standards Act of 1994; \$3,070,281,000 plus reimbursements, of which \$1,670,941,000 is available for obligation for the period July 1, 2002 through June 30, 2003; of which \$1,377,965,000 is available for obligation for the period April 1, 2002 through June 30, 2003, including \$1,127,965,000 to carry out chapter 4 of the Workforce Investment Act and \$250,000,000 to carry out section 169 of such Act; of which \$3,500,000 is available for obligation October 1, 2001 until expended for carrying out the National Skills Standards Act of 1994; and of which \$20,375,000 is available for the period July 1, 2002 through June 30, 2005 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers: Provided, That \$9,098,000 shall be for carrying out section 172 of the Workforce Investment Act: Provided further, That funding provided herein for carrying out Dislocated Worker Employment and Training Activities under the Workforce Investment Act shall include \$402,000,000 under section 132(a)(2)(B) of the Act, and \$87,000,000 under section 132(a)(2)(A) of the Act: Provided further, That, notwithstanding any other provision of law or related regulation, \$80,770,000 shall be for carrying out section 167 of the Workforce Investment Act, including \$74,751,000 for formula grants, \$5,000,000 for migrant and seasonal housing, and \$1,019,000 for other discretionary purposes: Provided further, That funding provided herein under section 166 of the Workforce Investment Act shall include \$1,711,000 for use under section 166(j)(1) of the Act: Provided further, That funds provided to

carry out section 171(d) of the Workforce Investment Act may be used for demonstration projects that provide assistance to new entrants in the workforce and incumbent workers: Provided further, That funding appropriated herein for Dislocated Worker Employment and Training Activities under section 132(a)(2)(A) of the Workforce Investment Act may be distributed for Dislocated Worker Projects under section 171(d) of the Act without regard to the 10 percent limitation contained in section 171(d) of the Act: Provided further, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

For necessary expenses of the Workforce Investment Act, 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 the Workforce Investment Act; \$2,463,000,000 plus reimbursements, of which \$2,363,000,000 is available for obligation for the period October 1, 2002 through June 30, 2003, and of which \$100,000,000 is available for the period October 1, 2002 through June 30, 2005, for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers: Provided, That funding provided herein for carrying out Dislocated Worker Employment and Training Activities under the Workforce Investment Act shall include \$880,800,000 under section 132(a)(2)(B) of the Act, and \$179,200,000 under section 132(a)(2)(A) of the Act.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out title V of the Older Americans Act of 1965, as amended, \$450,000,000.

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, \$415,650,000, 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, \$191,452,000, together with not to exceed \$3,238,886,000 (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, 2002, except that funds used for automation acquisitions shall be available for obligation by the States through September 30, 2004; and of which \$191,452,000, together with not to exceed \$773,283,000 of the amount which may be expended from said trust fund, shall be available for obligation for the period July 1, 2002 through June 30, 2003, 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 2002 is projected by the Department of Labor to exceed 2,622,000, 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 any other provisions of law, the portion of the funds received by the State of Mississippi in the settlement of litigation with a contractor relating to the acquisition of an automated system for benefit payments under the unemployment compensation program that is attributable to the expenditure of Federal grant funds awarded to the State shall be transferred to the account under this heading and shall be made available by the Department of Labor to the State of Mississippi for obligation by the State through fiscal year 2004 to carry out automation and related activities under the unemployment compensation program.

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 non-repayable 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, 2003, \$464,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 2002, 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, \$112,571,000, including \$5,903,000 to administer welfare-to-work grants, together with not to exceed \$48,507,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Pension and Welfare Benefits Administration, \$112,418,000.

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, 2002, for such Corporation: Provided, That not to exceed \$11,690,000 shall be available for administrative expenses of the Corporation:

Provided further, That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

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, \$375,164,000, together with \$1,981,000 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 \$2,000,000 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, \$121,000,000 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, 2001, 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, 2002: 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, \$36,696,000 shall be made available to the Secretary as follows: (1) for the operation of and enhancement to the automated data processing systems, including document imaging and conversion to a paperless office, \$24,522,000; (2) for medical bill review and periodic roll management, \$11,474,000; (3) for communications redesign, \$700,000; 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.

ENERGY EMPLOYEES OCCUPATIONAL ILLNESS
COMPENSATION FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to administer the Energy Employees Occupational Illness Compensation Act, \$136,000,000, 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 2002 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)

In fiscal year 2002, 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 2002 for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5) of that Act: \$31,558,000 for transfer to the Employment Standards Administration, "Salaries and Expenses"; \$22,590,000 for transfer to Departmental Management, "Salaries and Expenses"; \$328,000 for transfer to Departmental Management, "Office of Inspector General"; and \$356,000 for payments into miscellaneous receipts for the expenses of the Department of Treasury.

OCCUPATIONAL SAFETY AND HEALTH
ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, \$450,262,000, including not to exceed \$92,119,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than 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 Occupational Safety and Health Act of 1970; 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, 2002, 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 Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 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 Occupational Safety and Health Act of 1970 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, \$256,093,000, 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 2002 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, \$396,588,000, together with not to exceed \$69,132,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund; and \$10,280,000 which shall be available for obligation for the period July 1, 2002 through June 30, 2003, for Occupational Employment Statistics.

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 bilateral and multilateral foreign technical assistance, and \$37,000,000 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; \$361,524,000; together with not to exceed \$310,000, 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.).

OFFICE OF DISABILITY EMPLOYMENT POLICY

For necessary expenses of 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, \$43,263,000, of which not to exceed \$2,640,000 shall be for the President's Task Force on the Employment of Adults with Disabilities.

VETERANS EMPLOYMENT AND TRAINING

Not to exceed \$186,903,000 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, 2002. To carry out the Stewart B. McKinney Homeless Assistance Act and section 168 of the Workforce Investment Act of 1998, \$26,800,000, of which \$7,800,000 shall be available for obligation for the period July 1, 2002, through June 30, 2003.

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, \$52,182,000, together with not to exceed \$4,951,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

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. It is the sense of the Senate that amounts should be appropriated to provide dislocated worker employment and training assistance under the Workforce Investment Act to airport career centers (to be located with the Port Authority of New York and New Jersey) to enable such centers to provide services to workers in the airline and related industries (including ground transportation and other businesses) who have been dislocated as a result of the September 11, 2001 attack on the World Trade Center.

SEC. 104. It is the sense of the Senate that amounts should be appropriated to provide adult employment and training activities to assist individuals with disabilities from New York and New Jersey who require vocational rehabilitative services as a result of the September 11, 2001 attack on the World Trade Center in order to permit such individuals to return to work or maintain employment.

This title may be cited as the "Department of Labor Appropriations Act, 2002".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, 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 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, \$5,496,343,000, of which \$10,000,000 shall be available for construction and renovation of health care and other facilities, and of which \$25,000,000 from general revenues, notwithstanding section 1820(f) 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 the Division of Federal Occupational Health may utilize personal services contracting to employ professional management/administrative and occupational health professionals: Provided further, That of the funds made available under this heading, \$250,000 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 \$5,000,000 is available for carrying out the provisions of Public Law 104-73: Provided further, That of the funds made available under this heading, \$266,000,000 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 \$610,000,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act: Provided further, That of the amount provided for Rural Health Outreach Grants, \$12,500,000 shall be available to improve access to automatic external defibrillators in rural communities.

For special projects of regional and national significance under section 501(a)(2) of the Social Security Act, \$30,000,000, which shall become available on October 1, 2002, and shall remain available until September 30, 2003: Provided, That such amount shall not be counted toward compliance with the allocation required in section 502(a)(1) of such Act: Provided further, That such amount 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 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, \$3,792,000.

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 ex-

pendent: Provided, That for necessary administrative expenses, not to exceed \$2,992,000 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 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 insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, \$4,418,910,000, of which \$250,000,000 shall remain available until expended for equipment and construction and renovation of facilities, and in addition, such sums as may be derived from authorized user fees, which shall be credited to this account, of which \$52,000,000 shall remain available until expended for the National Pharmaceutical Stockpile, and of which \$154,527,000 for international HIV/AIDS programs shall remain available until September 30, 2003: Provided, That \$126,978,000 shall be available 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 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 \$10,000,000 may be available for making grants under section 1509 of the Public Health Service Act to not more than 15 States: Provided further, That 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, \$4,258,516,000.

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, \$2,618,966,000.

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, \$348,767,000.

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, \$1,501,476,000.

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, \$1,352,055,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, \$2,375,836,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, \$1,753,465,000.

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, \$1,123,692,000.

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, \$614,000,000.

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, \$585,946,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, \$909,174,000.

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, \$460,202,000.

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, \$349,983,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, \$125,659,000.

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, \$390,761,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, \$902,000,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, \$1,279,383,000.

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, \$440,448,000.

NATIONAL INSTITUTE FOR 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, \$140,000,000.

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, \$1,014,044,000: 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 \$125,000,000 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, \$110,000,000.

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 mi-

nority health and health disparities research, \$158,421,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, \$57,874,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, \$281,584,000, of which \$4,000,000 shall be available until expended for improvement of information systems: Provided, That in fiscal year 2002, 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, \$236,408,000: 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 one 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: Provided further, That, notwithstanding section 499(k)(10) of the Public Health Service Act, funds from the Foundation for the National Institutes of Health may be transferred to the National Institutes of Health.

BUILDINGS AND FACILITIES

For the study of, construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, \$306,600,000, to remain available until expended, of which \$26,000,000 shall be for the John Edward Porter Neuroscience Research Center: Provided, That notwithstanding any other provision of law, a single contract or related contracts, which collectively include the full scope of the project, may be employed for the development and construction of the first and second phases of the John Edward Porter Neuroscience Research Center: Provided further, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232-18.

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, \$3,088,456,000: Provided, That \$10,000,000 shall be made available to carry out subtitle C of title XXXVI of the Children's Health Act of 2000 (and the amendments made by such subtitle): Provided further, That \$5,000,000 shall be made available for mental health providers serving public safety workers affected by disasters of national significance.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

For carrying out titles III and IX of the Public Health Service Act, \$291,245,000, together with amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data, which shall be credited to this appropriation and shall remain available until expended.

CENTER 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, \$106,821,882,000, to remain available until expended.

For making, after May 31, 2002, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 2002 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 2003, \$46,601,937,000, 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, \$81,994,200,000.

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 \$2,464,658,000, 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, 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 \$18,200,000 appropriated under this heading for the managed care system redesign shall remain available until expended: Provided further, That the Secretary of Health and Human Services is directed to collect fees in fiscal year 2002 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 2002, 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), \$2,447,800,000, to remain available until expended; and for such purposes for the first quarter of fiscal year 2003, \$1,100,000,000, 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 to 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, \$300,000,000: Provided, That these funds are hereby designated by the Congress to be emergency requirements pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That these funds shall be made available only after submission to the Congress of an official budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in such Act.

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), \$435,224,000 to remain available through September 30, 2004: Provided, That up to \$10,000,000 is available to carry out the Trafficking Victims Protection Act of 2000.

For carrying out section 5 of the Torture Victims Relief Act of 1998 (Public Law 105-320), \$10,000,000.

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), \$2,000,000,000 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 child care: Provided further, That \$10,000,000 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 paragraph (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 5.7 percent.

CHILDREN AND FAMILIES SERVICES PROGRAMS
(INCLUDING RESCISSIONS)

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, section 473A 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, sections 310 and 316 of the Family Violence Prevention and Services Act, as amended, and section 126 and titles IV and V of Public Law 100-485, \$8,592,496,000, of which \$43,000,000, to remain available until September 30, 2003, 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 2000 and 2001; of which \$765,304,000 shall be for making payments under the Community Services Block Grant Act; and of which \$6,600,000,000 shall be for making payments under the Head Start Act, of which \$1,400,000,000 shall become available October 1, 2002 and remain available through September 30, 2003: Provided, 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 all eligible entities currently in good standing in the Community Services Block Grant program shall receive an increase in funding proportionate to the increase provided in this Act for the Community Services Block Grant: Provided further, That \$105,133,000 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 \$33,000,000 is for Maternity Group Homes: Provided further, That \$89,000,000 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: 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 Commu-

nity 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.

Funds appropriated for fiscal year 2002 under section 429A(e), part B of title IV of the Social Security Act shall be reduced by \$6,000,000.

Funds appropriated for fiscal year 2002 under section 413(h)(1) of the Social Security Act shall be reduced by \$15,000,000.

PROMOTING SAFE AND STABLE FAMILIES

For carrying out section 430 of the Social Security Act, \$305,000,000. In addition, for such purposes, \$70,000,000 to carry out such section.

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, \$4,885,200,000.

For making payments to States or other non-Federal entities under title IV-E of the Social Security Act, for the first quarter of fiscal year 2003, \$1,754,000,000.

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, \$1,209,756,000, of which \$5,000,000 shall be available for activities regarding medication management, screening, and education to prevent incorrect medication and adverse drug reactions.

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, \$416,361,000, together with \$5,851,000, 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 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, \$68,700,000 shall be available to support activities to counter potential biological disease, and chemical threats to civilian populations; \$50,000,000 is for minority AIDS prevention and treatment activities; and \$15,000,000 shall be for an Information Technology Security and Innovation Fund for department-wide activities involving cybersecurity, information technology security, and related innovation projects.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General, including the hire of passenger motor vehicles for investigations, in carrying out the provisions of the Inspector General Act of 1978, as amended, \$35,786,000: 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, each of which activities is hereby authorized in this and subsequent fiscal years.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, \$28,691,000, 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, \$20,500,000.

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 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.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed \$37,000 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 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 2 percent, of any amounts appropriated for programs authorized under the PHS Act and other Acts 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 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 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. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by striking "1997, 1998, 1999, 2000, and 2001" and inserting "1997, 1998, 1999, 2000, 2001, and 2002"; and

(B) in subsection (e), by striking "October 1, 2001" each place it appears and inserting "October 1, 2002"; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking "September 30, 2001" and inserting "September 30, 2002".

SEC. 214. (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. 300r-26) if such State certifies to the Secretary of Health and Human Services by May 1, 2002 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 2002 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 2001, 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 2001

State expenditures and all fiscal year 2002 obligations for tobacco prevention and compliance activities by program activity by July 31, 2002.

(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, 2002.

(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. 215. (a) 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 2002, the Secretary of Health and Human Services is authorized to—

(1) utilize the authorities contained in subsection 2(c) of the State Department Basic Authorities Act of 1956, as amended, and

(2) utilize the authorities contained in 22 U.S.C. sections 291 and 292 and directly or through contract or cooperative agreement to lease, alter or renovate facilities in foreign countries, to carry out programs supported by this appropriation notwithstanding PHS Act section 307.

In exercising the authority set forth in (1) and (2), the Secretary of Health and Human Services shall consult with the Department of State to assure that planned activities are within the legal strictures of the State Department Basic Authorities Act of 1956, as amended, and other applicable parts of U.S.C. Title 22.

SEC. 216. Notwithstanding any other provision of law relating to vacancies in offices for which appointments must be made by the President, including any time limitation on serving in an acting capacity, the Acting Director of the National Institutes of Health as of January 12, 2000, may serve in that position until a new Director of the National Institutes of Health is confirmed by the Senate.

SEC. 217. The following amounts, appropriated in this title, shall be transferred to International Assistance Programs, "Global Fund to Fight HIV/AIDS, Malaria, and Tuberculosis", to remain available until expended: from National Institutes of Health, "National Institute of Allergy and Infectious Diseases", \$25,000,000; from National Institutes of Health, "Buildings and Facilities", \$70,000,000; and from Departmental Management, "General Departmental Management", \$5,000,000.

SEC. 218. Of the funds provided to the Office of the General Counsel, not less than \$500,000 shall be used to provide legal support for enforcement of the labeling provisions of the Dietary Supplement Health and Education Act of 1994.

SEC. 219. EXPRESSING THE SENSE OF THE SENATE THAT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES PUBLISH A NOTICE REGARDING GOOD MANUFACTURING PRACTICES FOR DIETARY SUPPLEMENTS. (a) FINDINGS.—

(1) Over 100,000,000 Americans regularly use dietary supplements to maintain and improve their health status.

(2) Congress has established a strong regulatory framework to ensure that consumers have access to safe dietary supplement products and information about those products.

(3) Good Manufacturing Practice (GMP) regulations are the primary enforcement tool whereby government inspectors ensure that all food products (including dietary supplements) are manufactured according to rigorous quality control standards, including appropriate labeling, sanitation, purity and records-keeping.

(4) The Dietary Supplement Health and Education Act of 1994 authorized development of Good Manufacturing Practice guidelines for dietary supplements.

(5) The Good Manufacturing practice guidelines will be instrumental in assuring the American public that dietary supplements are properly manufactured and labeled.

(6) Those guidelines have been in development by the Department of Health and Human Services, its operating divisions, and the Office of Management and Budget for over 5 years.

(b) **SENSE OF THE SENATE.**—The Senate expresses a sense of the Senate that the Department of Health and Human Services or its operating divisions publish a Notice of Proposed Rulemaking with respect to Good Manufacturing Practices for dietary supplements within 15 days of enactment of this Act.

SEC. 220. (a) FINDINGS.—Congress finds that—

(1) according to the Centers for Disease Control and Prevention, over 765,000 people in the United States have been diagnosed with the virus that causes AIDS since 1981, and over 442,000 deaths have occurred in the United States as a result of the disease; and

(2) Federal AIDS prevention funds should be used to provide resources, training, technical assistance, and infrastructure to national, regional, and community-based organizations working to educate the public on the virus that causes AIDS and stopping the spread of the disease.

(b) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Inspector General of the Department of Health and Human Services shall conduct an audit of all Federal amounts allocated for AIDS prevention programs and report to Congress with their findings.

SEC. 221. It is the sense of the Senate that the Secretary of Health and Human Services should fund and reimburse hospitals and medical facilities in States that have tested and treated Federal workers that have been exposed to anthrax, and continue to test and treat Federal workers that have been determined by the Centers for Disease Control and Prevention as at risk for exposure to anthrax.

SEC. 222. It is the sense of the Senate that the Secretary of Health and Human Services should ensure that each contract entered into between a State and an entity (including a health insuring organization and a medicaid managed care organization) that is responsible for the provision (directly or through arrangements with providers of services) of medical assistance under a State medicaid plan should provide for—

(1) compliance with mandatory blood lead screening requirements that are consistent with prevailing guidelines of the Centers for Disease Control and Prevention for such screening; and

(2) coverage of lead treatment services including diagnosis, treatment, and follow-up furnished for children with elevated blood lead levels in accordance with prevailing guidelines of the Centers for Disease Control and Prevention.

SEC. 223. It is the sense of the Senate that States should be authorized to use funds provided under the State children's health insurance program under title XXI of the Social Security Act to—

(1) comply with mandatory blood lead screening requirements that are consistent with prevailing guidelines of the Centers for Disease Control and Prevention for such screening; and

(2) provide coverage of lead treatment services including diagnosis, treatment, and follow-up furnished for children with elevated blood lead levels in accordance with prevailing guidelines of the Centers for Disease Control and Prevention.

SEC. 224. It is the sense of the Senate that the Secretary of Health and Human Services should establish a program to improve the blood lead screening rates of States for children under the age of 3 enrolled in the medicaid program under which, using State-specific blood lead screening data, the Secretary would annually pay a State an amount to be determined:

(1) For each 2 year-old child enrolled in the medicaid program in the State who has received the minimum required (for that age) screening blood lead level tests (capillary or venous samples) to determine the presence of elevated blood

lead levels, as established by the Centers for Disease Control and Prevention.

(2) For each such child who has received such minimum required tests.

SEC. 225. For the Health Resources and Services Administration, \$5,000,000 for grants for education, prevention, and early detection of radiogenic cancers and diseases under section 417C of the Public Health Service Act (42 U.S.C. 285a–9) (as amended by the Radiation Exposure Compensation Act Amendments of 2000), of which \$1,000,000 shall be available to enter into a contract with the National Research Council under which the Council shall—

(1) review the most recent scientific information related to radiation exposure and associated cancers or other diseases;

(2) make recommendations to—

(A) reduce the length of radiation exposure requirements for any compensable illnesses under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note); and

(B) include additional illnesses, geographic areas, or classes of individuals with the scope of compensation of such Act; and

(3) not later than June 30, 2003, prepare and submit to the Committee on Appropriations, Committee on Health, Education, Labor, and Pensions, and Committee on the Judiciary of the Senate and the Committee on Appropriations, Committee on Energy and Commerce, and Committee on the Judiciary of the House of Representatives, a report describing the findings made by the Council under paragraphs (1) and (2).

SEC. 226. Effective upon the date of enactment of this Act, \$200,000,000 of the amount appropriated under section 403(a)(4)(F) of the Social Security Act (42 U.S.C. 603(a)(4)(F)) is rescinded.

SEC. 227. It is the sense of the Senate that—

(1) the Secretary of Health and Human Services, acting through the Director of NIH and the Director of the National Institute of Mental Health (in this section referred to as the “Institute”), should expand and intensify research and related activities of the Institute with respect to post-abortion depression and post-abortion psychosis (in this section referred to as “post-abortion conditions”);

(2) the Director of the Institute should coordinate the activities of the Director under paragraph (1) with similar activities conducted by the other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to post-abortion conditions;

(3) in carrying out paragraph (1)—

(A) the Director of the Institute should conduct or support research to expand the understanding of the causes of, and to find a cure for, post-abortion conditions; and

(B) activities under such paragraph should include conducting and supporting the following:

(i) basic research concerning the etiology and causes of the conditions;

(ii) epidemiological studies to address the frequency and natural history of the conditions and the differences among racial and ethnic groups with respect to the conditions;

(iii) the development of improved diagnostic techniques;

(iv) clinical research for the development and evaluation of new treatments, including new biological agents; and

(v) information and education programs for health care professionals and the public; and

(4)(A) the Director of the Institute should conduct a national longitudinal study to determine the incidence and prevalence of cases of post-abortion conditions, and the symptoms, severity, and duration of such cases, toward the goal of more fully identifying the characteristics of such cases and developing diagnostic techniques; and

(B) beginning not later than 3 years after the date of the enactment of this Act, and periodi-

cally thereafter for the duration of the study under subparagraph (A), the Director of the Institute should prepare and submit to the Congress reports on the findings of the study.

SEC. 228. Section 582 of the Public Health Service Act (42 U.S.C. 290hh–1(f)) is amended by adding at the end the following:

“(g) **SHORT TITLE.**—This section may be cited as the “Donald J. Cohen National Child Traumatic Stress Initiative”.”

This title may be cited as the “Department of Health and Human Services Appropriations Act, 2002”.

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965 as amended by H.R. 1 as passed by the Senate on June 14, 2001 (“ESEA”); the McKinney-Vento Homeless Assistance Act; and section 418A of the Higher Education Act of 1965, \$11,912,900,000, of which \$4,129,200,000, shall become available on July 1, 2002, and shall remain available through September 30, 2003, and of which \$6,953,300,000 shall become available on October 1, 2002, and shall remain available through September 30, 2003, for academic year 2002–2003: Provided, That \$7,172,690,000 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, 2001, 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 \$1,000,000,000 shall be available for targeted grants under section 1125: Provided further, That \$649,979,000 shall be available for education finance incentive grants under section 1125A: Provided further, That grant awards under sections 1124 and 1124A of title I of the ESEA shall be not less than 95 percent of the amount each State and local educational agency received under this authority for fiscal year 2001: Provided further, That notwithstanding any other provision of law, grant awards under section 1124A of title I of the ESEA shall be made to those local educational agencies that received a concentration grant under the Department of Education Appropriations Act, 2001, but are not eligible to receive such a grant for fiscal year 2002.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VI of the Elementary and Secondary Education Act of 1965, as redesignated and amended by H.R. 1 of the 107th Congress, as passed by the House of Representatives on May 23, 2001, \$1,130,500,000, of which \$982,500,000 shall be for basic support payments under section 8003(b), \$50,000,000 shall be for payments for children with disabilities under section 8003(d), \$35,000,000 shall be for construction under section 8007, \$55,000,000 shall be for Federal property payments under section 8002, and \$8,000,000, to remain available until expended, shall be for facilities maintenance under section 8008.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by sections 1117A and 1229 and subpart 1 of part F of title I and titles II, IV, V, VI, parts B and C of title VII, and title XI of the Elementary and Secondary Education Act of 1965, as amended by H.R. 1 as passed by the Senate on June 14, 2001 (“ESEA”); and the Civil Rights Act of 1964; \$8,723,014,000, of which \$1,165,750,000 shall become available on July 1, 2002, and remain available through September 30, 2003, and of which \$1,765,000,000 shall become available on October 1, 2002, and shall remain available through September 30, 2003, for academic year 2002–2003: Provided, That \$28,000,000 shall be for part A of title XIII of the ESEA as in effect prior to Senate passage of H.R. 1 to continue the operation of the current

Comprehensive Regional Assistance Centers: Provided further, That of the amount made available for subpart 4 of part B of title V of the ESEA, \$925,000,000 shall be available, notwithstanding any other provision of law, to State educational agencies and outlying areas under the terms and conditions set forth in section 305 of this Act for grants for school repair and renovation: Provided further, That funds made available to local education agencies under subpart B of part F of title XI shall be used for activities related to the redesign of large high schools: Provided further, That of the funds appropriated for part F of title XI, \$15,000,000 shall be available for dropout prevention programs under part H of title I and \$100,000,000 shall be available under part C of title IX to enable the Secretary of Education to award grants to develop, implement, and strengthen programs to teach American history (not social studies) as a separate subject within school curricula: Provided further, That of the funds made available to carry out subpart 2 of part A of title IV of the Elementary and Secondary Education Act of 1965, as amended by H.R. 1 as passed by the Senate on June 14, 2001, \$9,000,000 shall be made available to enable the Secretary of Education to award grants to enable local educational agencies to address the needs of children affected by terrorist attacks, times of war or other major violent or traumatic crises, including providing mental health services to such children, and \$1,000,000 shall be made available to enable the Secretary of Education, in consultation with the Secretary of Health and Human Services, to develop recommendations and models to assist communities in developing evacuation and parental notification plans for schools and other community facilities where children gather: Provided further, That \$2,500,000 shall be available to carry out part E of title II, including administrative expenses associated with such part.

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, as amended by H.R. 1 as passed by the Senate on June 14, 2001, \$117,000,000.

BILINGUAL AND IMMIGRANT EDUCATION

For section 3202 of part B and section D of title III of the Elementary and Secondary Education Act of 1965, as amended by H.R. 1 as passed by the Senate on June 14, 2001, \$616,000,000.

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act, \$8,439,643,000, of which \$3,090,452,000 shall become available for obligation on July 1, 2002, and shall remain available through September 30, 2003, and of which \$5,072,000,000 shall become available on October 1, 2002, and shall remain available through September 30, 2003, for academic year 2002–2003: Provided, That \$9,500,000 shall be for Recording for the Blind and Dyslexic to support the development, production, and circulation of recorded educational materials: Provided further, That \$1,500,000 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 under Public Law 106–554, 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, \$2,932,617,000, of which \$60,000,000 shall remain available through September 30, 2003: Provided, That the funds provided for Title I of the Assistive Technology Act of 1998 (the AT Act) shall be allo-

cated notwithstanding section 105(b)(1) of the AT Act: Provided further, That section 101(f) of the AT Act shall not limit the award of an extension grant to three years: Provided further, That each State shall be provided a minimum of \$500,000 and each outlying area \$150,000 for activities under section 101 of the AT Act and each State shall be provided a minimum of \$100,000 and each outlying area \$50,000 for activities under section 102 of the Act: Provided further, That if the funds appropriated for Title I of the AT Act are less than required to fund these minimum allotments, grants provided under sections 101 and 102 of the AT Act shall be the same as their fiscal year 2001 amounts and any amounts in excess of these minimum requirements shall be allocated proportionally to achieve the prescribed minimums: Provided further, That \$26,884,000 shall be used to support grants for up to three years to States under title III of the AT Act, of which the Federal share shall not exceed 75 percent in the first year, 50 percent in the second year, and 25 percent in the third year, and that the requirements in section 301(c)(2) and section 302 of that Act shall not apply to such grants.

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.), \$14,000,000.

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.), \$54,976,000, of which \$5,376,000 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.), \$97,000,000: 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 Technical Education Act, the Adult Education and Family Literacy Act, and title VIII–D of the Higher Education Act of 1965, as amended, and Public Law 102–73, \$1,818,060,000, of which \$1,020,060,000 shall become available on July 1, 2002 and shall remain available through September 30, 2003 and of which \$791,000,000 shall become available on October 1, 2002 and shall remain available through September 30, 2003: Provided, That of the amounts made available for the Carl D. Perkins Vocational and Technical Education Act, \$7,000,000 shall be for tribally controlled postsecondary vocational and technical institutions under section 117: Provided further, That \$10,000,000 shall be for carrying out section 118 of such Act: Provided further, That of the amounts made available for the Carl D. Perkins Vocational and Technical Education Act, \$5,000,000 shall be for demonstration activities authorized by section 207: Provided further, 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, \$9,500,000 shall be for national leadership activities under section 243 and \$6,560,000 shall be for the National Institute for Literacy under section 242: Provided further, That \$22,000,000 shall be for Youth Offender Grants, of which \$5,000,000 shall be used in accordance with section 601 of Public Law 102–73 as that section was in effect prior to the enactment of Public Law 105–220: Provided further, That of the amounts made available for title I of the Perkins Act, the Secretary may reserve up to 0.54 percent for incentive grants under section 503 of the Workforce Investment Act, without regard to section 111(a)(1)(C) of the Perkins Act: Provided further, That of the amounts made available for the Adult Education and Family Literacy Act, the Secretary may reserve up to 1.72 percent for incentive grants under section 503 of the Workforce Investment Act, without regard to section 211(a)(3) of the Adult Education and Family Literacy Act.

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, \$12,284,100,000, which shall remain available through September 30, 2003.

The maximum Pell Grant for which a student shall be eligible during award year 2002–2003 shall be \$4,000: Provided, That notwithstanding section 401(g) of the Act, if the Secretary determines, prior to publication of the payment schedule for such award year, that the amount included within this appropriation for Pell Grant awards in such award year, and any funds available from the fiscal year 2001 appropriation for Pell Grant awards, are insufficient to satisfy fully all such awards for which students are eligible, as calculated under section 401(b) of the Act, the amount paid for each such award shall be reduced by either a fixed or variable percentage, or by a fixed dollar amount, as determined in accordance with a schedule of reductions established by the Secretary for this purpose.

FEDERAL FAMILY EDUCATION LOAN PROGRAM ACCOUNT

For Federal administrative expenses to carry out guaranteed student loans authorized by title IV, part B, of the Higher Education Act of 1965, as amended, \$49,636,000.

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, as amended, title VIII of the Higher Education Amendments of 1998, and the Mutual Educational and Cultural Exchange Act of 1961, \$1,826,223,000, of which \$5,000,000 for interest subsidies authorized by section 121 of the Higher Education Act of 1965, shall remain available until expended: Provided, That \$10,000,000, to remain available through September 30, 2003, shall be available to fund fellowships for academic year 2003–2004 under part A, subpart 1 of title VII of said Act, under the terms and conditions of part A, subpart 1: Provided further, That \$1,500,000 is for data collection and evaluation activities for programs under the Higher Education Act of 1965, including such activities needed to comply with the Government Performance and Results Act of 1993: Provided further, That \$18,000,000 shall be available for tribally controlled colleges and universities under section 316 of the Higher Education Act of 1965, of

which \$6,000,000 shall be used for construction and renovation: Provided further, That the funds provided for title II of the Higher Education Act of 1965 shall be allocated notwithstanding section 210 of the Higher Education Act of 1965: Provided further, That funds for part B of title VII of the Higher Education Act of 1965 may be used, at the discretion of the Secretary of Education, to fund continuation awards under title IV, part A, subpart 8 of such Act.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), \$232,474,000, 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, \$762,000 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 total amount of 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, \$208,000.

EDUCATION RESEARCH, STATISTICS, AND ASSESSMENT

For carrying out activities authorized by the Educational Research, Development, Dissemination, and Improvement Act of 1994, including part E; the National Education Statistics Act of 1994, including sections 411 and 412; and parts B, D, and E of title XI of the Elementary and Secondary Education Act as amended by H.R. 1 as passed by the Senate on June 14, 2001 (ESEA), \$431,567,000: Provided, That \$53,000,000 of the amount available for the national education research institutes shall be allocated notwithstanding section 912(m)(1)(B-F) and subparagraphs (B) and (C) of section 931(c)(2) of Public Law 103-227: Provided further, That funds appropriated to support activities conducted under section 411 of the National Education Statistics Act of 1994 may be used to pay for the administration of State assessment: Provided further, That of the funds appropriated under section 11305 of part D of title XI of the ESEA, \$1,500,000 shall be used to conduct a violence prevention demonstration program and \$500,000 to conduct a native American civic education initiative: Provided further, That \$12,000,000 of the funds appropriated under part D of title XI shall be used to support activities conducted under section 11306, consistent with the distribution specified under section 11304(2)(b).

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 two passenger motor vehicles, \$424,212,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, \$79,934,000.

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, \$38,720,000.

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.

SEC. 305. (a) From the amount made available for urgent school renovation grants under the heading "School Improvement Programs" in accordance with this section, the Secretary of Education shall provide grants to the State and outlying area entities responsible for the financing of education facilities (hereinafter in this section referred to as the "State entity"), on the basis of the same percentage as the State educational agency received of the funds allocated to States and outlying areas through the Department of Education Appropriations Act, 2001 for carrying out part A, title I of the Elementary and Secondary Education Act of 1965, for awarding grants in accordance with subsection (b) to local educational agencies to enable them to make urgent repairs and renovations to public school facilities.

(b)(1) A State entity shall award urgent school renovation grants to local educational agencies under this section on a competitive basis that includes consideration of each local educational agency applicant's—

(A) relative percentage of children from low-income families;

(B) need for school repairs and renovations;

(C) fiscal capacity; and

(D) plans to maintain the facilities repaired or renovated under the grant.

(2) The Federal share of the cost of each project assisted by funds made available under subsection (a)(2) shall be determined based on the percentage of the local educational agency's attendance that is comprised of children 5 to 17 years of age, inclusive, who are from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved for the most recent fiscal year for which data satisfactory to the Secretary are available:

If the percentage is:	Then the Federal share shall be:
40 percent or greater	100 percent
30-39.99 percent	90 percent
20-29.99 percent	80 percent
10-19.99 percent	70 percent
less than 10 percent	60 percent.

(3) If, after providing an opportunity to the public and all local educational agencies in the State to comment, consistent with any applicable State and local law specifying how the comments may be received and how the comments may be reviewed by any member of the public, the State entity demonstrates that the amount of the State's allocation exceeds the amount needed to address the needs of the local educational agencies in the State for school repair and renovation under this section—

(A) the State entity shall transfer any excess portion of that allocation to the State educational agency; and

(B) the State educational agency shall allocate 100 percent of those excess funds received under subsection (a) in accordance with section 5312 of the Elementary and Secondary Education Act of 1965 as amended by H.R. 1 as passed the Senate on June 14, 2001 for activities authorized under section 5331 of the Elementary and Secondary Education Act of 1965 as amended by H.R. 1 as passed the Senate on June 14, 2001 to be determined by each such local educational agency as part of a local strategy for improving academic achievement.

(c) If a local educational agency uses funds for urgent school renovation, then the following provisions shall apply—

(1) Urgent school renovation shall be limited to one or more of the following—

(A) school facilities modifications necessary to render school facilities accessible in order to comply with the Americans With Disabilities Act;

(B) school facilities modifications necessary to render school facilities accessible in order to comply with section 504 of the Rehabilitation Act;

(C) asbestos abatement or removal from school facilities;

(D) emergency renovations or repairs to the school facilities only to ensure the health and safety of students and staff; and

(E) security upgrades.

(2) no funds received under this section for urgent school renovation may be used for—

(A) payment of maintenance costs in connection with any projects constructed in whole or part with Federal funds provided under this section; or

(B) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

SEC. 306. (a) FINDINGS.—Congress makes the following findings:

(1) The number of students applying for loans and claiming to attend foreign institutions has risen from 4,594 students in 1993 to over 12,000 students in the 1998-1999 school year.

(2) Since 1995 there have been at least 25 convictions of students who fraudulently claimed they were attending a foreign institution, then cashed the check issued directly to them, and did not attend the foreign institution.

(3) Tighter disbursement controls are necessary to reduce the number of students fraudulently applying for loans under title IV of the Higher Education Act of 1965 and claiming they are going to attend foreign institutions. Funds should not be disbursed for attendance at a foreign institution unless the foreign institution can verify that the student is attending the institution.

(b) STUDY AND REPORT.—

(1) STUDY.—The Comptroller General shall conduct a study regarding—

(A) Federal student loan disbursements to students attending foreign schools; and

(B) fraud, waste, and abuse in the Federal Family Education Loan Program as the fraud,

waste, and abuse relates to students receiving funding in order to attend a foreign school.

(2) **REPORT.**—The Comptroller General shall report to Congress regarding the results of the study.

(3) **REPORT CONTENTS.**—The report described in paragraph (2) shall—

(A) include information on whether or not there are standards that a foreign school must meet for an American student to attend and receive a federally guaranteed student loan;

(B) compare the oversight controls for loans dispensed to students attending foreign schools and domestic institutions;

(C) examine the default rates at foreign schools that enroll American students receiving federally guaranteed student loans and determine the number of students that are receiving loans in multiple years; and

(D) make recommendations for legislative changes that are required to ensure the integrity of the Federal Family Education Loan Program.

SEC. 307. The requirement of section 415C(b)(8) of the Higher Education Act of 1965 (20 U.S.C. 1070c-2(b)(8)) shall not apply to a State program during fiscal year 2001 and the State expenditures under the State program for fiscal year 2001 shall be disregarded in calculating the maintenance of effort requirement under that section for each of the fiscal years 2002 through 2004, if the State demonstrates, to the satisfaction of the Secretary of Education, that it—

(1) allocated all of the funds that the State appropriated in fiscal year 2001 for need-based scholarship, grant, and work study assistance to the programs described in subpart 4 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070c et seq.); and

(2) did not participate in the program described in section 415E of the Higher Education Act of 1965 (20 U.S.C. 1070c-3a) in fiscal year 2001.

This title may be cited as the “Department of Education Appropriations Act, 2002”.

TITLE IV—RELATED AGENCIES

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the United States Soldiers' and Airmen's Home and the United States Naval Home, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, \$71,440,000, of which \$9,812,000 shall remain available until expended for construction and renovation of the physical plants at the United States Soldiers' and Airmen's Home and the United States Naval Home: Provided, That, notwithstanding any other provision of law, a single contract or related contracts for development and construction, to include construction of a long-term care facility at the United States Naval Home, 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 and 252.232-7007, Limitation of Government Obligations.

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, \$321,276,000: Provided, That none of the funds made available to the Corporation for National and Community Service in this Act for activities authorized by 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 Communica-

tions Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2004, \$395,000,000: 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: Provided further, That in addition to the amounts provided above, \$25,000,000, for costs related to digital program production, development, and distribution, associated with the transition of public broadcasting to digital broadcasting, to be awarded as determined by the Corporation in consultation with public radio and television licensees or permittees, or their designated representatives.

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), \$40,482,000, including \$1,500,000, to remain available through September 30, 2003, 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.), \$6,939,000.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

OFFICE OF LIBRARY SERVICES: GRANTS AND ADMINISTRATION

For carrying out subtitle B of the Museum and Library Services Act, \$168,078,000, of which \$11,081,000 shall be for projects authorized by section 262 of such Act, notwithstanding section 221(a)(1)(B).

MEDICARE PAYMENT ADVISORY COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1805 of the Social Security Act, \$8,500,000, 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), \$1,495,000.

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 EDUCATION GOALS PANEL

For expenses necessary for the National Education Goals Panel, as authorized by title II, part A of the Goals 2000: Educate America Act, \$2,000,000.

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, \$226,438,000: 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, \$10,635,000.

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), \$8,964,000.

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, \$146,000,000, which shall include amounts becoming available in fiscal year 2002 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 \$146,000,000: 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, 2003, 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, \$97,700,000, 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 \$6,480,000, 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: Provided further, That funds made available under the heading in this Act, or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, may be used for any audit, investigation, or review of the Medicare program.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 217(g), 228(g), and 1131(b)(2) of the Social Security Act, \$434,400,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, \$332,840,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 2003, \$108,000,000, to remain available until expended.

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, \$21,277,412,000, 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.

In addition, \$200,000,000, to remain available until September 30, 2003, for payment to the Social Security trust funds for administrative expenses for continuing disability reviews as authorized by section 103 of Public Law 104-121 and section 10203 of Public Law 105-33. The term "continuing disability reviews" means reviews and redeterminations as defined under section 201(g)(1)(A) of the Social Security Act, as amended.

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 2003, \$10,790,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed \$35,000 for official reception and representation expenses, not more than \$7,035,000,000 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 at the end of fiscal year 2002 not needed for fiscal year 2002 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.

From funds provided under the first paragraph, not less than \$200,000,000 shall be available for conducting continuing disability reviews.

In addition to funding already available under this heading, and subject to the same terms and conditions, \$433,000,000, to remain available until September 30, 2003, for continuing disability reviews as authorized by section 103 of Public Law 104-121 and section 10203 of Public Law 105-33. The term "continuing disability reviews" means reviews and redeterminations as defined under section 201(g)(1)(A) of the Social Security Act, as amended.

In addition, \$100,000,000 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 2002 exceed \$100,000,000, the amounts shall be available in fiscal year 2003 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 2001 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, \$19,000,000, together with not to exceed \$56,000,000, 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, \$15,207,000.

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 \$20,000 and \$15,000, 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 \$2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed \$2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 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 unless the Secretary of Health and Human Services determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs.

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 subcontract 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 in this Act for the Departments of Labor, Health and Human Services, and Education may be used to make a grant unless the House and Senate Committees on Appropriations are notified not less than three full business days before any discretionary grant awards or cooperative agreement, totaling \$500,000 or more is announced by these departments from any discretionary grant program other than emergency relief programs: Provided, That no notification shall involve funds that are not available for obligation.

SEC. 515. Section 102 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note) is amended by adding at the end the following:

"(f) STATE CONTRIBUTIONS.—

"(1) SUPPLEMENT, NOT SUPPLANT.—

"(A) IN GENERAL.—Effective October 1, 2002, the portion of the funds made available to a State to carry out this section for a fiscal year that exceeds the baseline funding for the State shall be used to supplement and not supplant State (including local) public funds expended to provide free public education.

"(B) DEFINITIONS.—In this paragraph:

"(i) BASELINE FUNDING.—The term 'baseline funding', used with respect to a State, means the funds made available to the State to carry out this section for fiscal year 2000, increased or decreased by the same percentage as the percentage by which the Consumer Price Index for All Urban Consumers (United States city average), published by the Secretary of Labor, has increased or decreased by June of the preceding fiscal year from such Index for June 2000.

"(ii) FREE PUBLIC EDUCATION.—The term 'free public education' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(2) MAINTENANCE OF EFFORT.—

"(A) IN GENERAL.—Effective October 1, 2002, a State may receive funds under this section for a fiscal year only if the Secretary of Education finds that the aggregate expenditure of the State with respect to the provision of free public education by such State for the preceding fiscal year was not less than 100 percent of the baseline expenditure for the State.

"(B) USE OF FUNDS.—If a State fails to receive funds under this section for a fiscal year in accordance with subparagraph (A), the Secretary of the Treasury shall use the funds to make payments to the other States, in proportion to the amounts already received by the other States under this section for the fiscal year.

"(C) WAIVER.—The Secretary of the Treasury may waive the requirements of this paragraph if the Secretary determines that such a waiver would be equitable due to—

"(i) exceptional or uncontrollable circumstances such as a natural disaster; or

"(ii) a precipitous decline in the financial resources of the State.

"(D) DEFINITIONS.—In this paragraph:

"(i) AGGREGATE EXPENDITURE.—The term 'aggregate expenditure', used with respect to a State, shall not include any funds received by the State under this Act.

"(ii) BASELINE EXPENDITURE.—The term 'baseline expenditure', used with respect to a State, means the aggregate expenditure of the State with respect to the provision of free public education by such State for fiscal year 2000, increased or decreased by the same percentage as the percentage by which the Consumer Price Index for All Urban Consumers (United States city average), published by the Secretary of Labor, has increased or decreased by June of the preceding fiscal year from such Index for June 2000.

"(iii) FREE PUBLIC EDUCATION.—The term 'free public education' has the meaning given the term in paragraph (1)."

SEC. 516. (a) FINDINGS.—The Senate finds the following:

(1) The Low-Income Home Energy Assistance Program (referred to in this section as "LIHEAP") is the primary Federal program available to help low-income households, the elderly, and individuals with disabilities pay their home energy bills.

(2) Congress provided \$300,000,000 in emergency funding for LIHEAP in the Supplemental Appropriations Act, 2001 because regular appropriations were insufficient to help States offset the increase in high utility bills during the winter of 2000–2001.

(3) Congress expected that half of the emergency funding would be made available for targeted assistance to States with the most critical needs, and half would be given to help States address unmet energy assistance needs resulting from the extraordinary price increases in home heating fuels and residential natural gas, experienced during the winter of 2000–2001.

(4) In the winter of 2000–2001, there was a 30 percent increase in households receiving LIHEAP assistance in large part due to the high price of home energy and severe weather.

(5) In the winter of 2000–2001, the LIHEAP program was only able to serve 17 percent of the 29,000,000 households eligible for LIHEAP assistance.

(6) In the winter of 2000–2001—

(A) heating oil prices were 36 percent higher than in the winter of 1999–2000, and residential natural gas cost 42 percent more per cubic foot than in the winter of 1999–2000; and

(B) the weather was 10 percent colder than in the winter of 1999–2000.

(7) In the winter of 2000–2001, record cold weather and high home energy bills took a financial toll on low-income families and the elderly who spend, on average, 19.5 percent of their annual income on energy bills, as compared to 3.7 percent for all other households.

(8) Families in the United States need emergency LIHEAP funding to pay home energy bills from the winter of 2000–2001 and restore heat as the succeeding winter approaches.

(9) More citizens will need LIHEAP assistance in fiscal year 2002 due to the recent increase in unemployment and the slowing economy.

(10) States are being forced to draw down fiscal year 2002 LIHEAP funds in order to address unmet needs from fiscal year 2001 and help low-income households pay overdue home energy bills.

(11) Emergency LIHEAP funding will provide States with critical resources to help provide assistance to residents.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President should immediately release the \$300,000,000 in emergency funding for LIHEAP provided by the Supplemental Appropriations Act, 2001.

SEC. 517. (a) Section 10 of the Native Hawaiian Health Care Improvement Act (42 U.S.C. 11709) is amended—

(1) in subsection (a) in the matter preceding paragraph (1), by striking "Kamehameha School/Bishop Estate" and inserting "Papa Ola Lokahi"; and

(2) in subsection (b)(1)(C), by striking "Kamehameha School/Bishop Estate" and inserting "Papa Ola Lokahi".

(b) Section 338(k) of the Public Health Service Act (42 U.S.C. 254s(a)) is amended by striking "Kamehameha School/Bishop Estate" and inserting "Papa Ola Lokahi".

SEC. 518. (a) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and to the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives on the matters described in subsection (b) with respect to the administrative simplification requirements of the Health Insurance Portability and Accountability Act of 1996

(Public Law 104-191; 110 Stat. 2021) and programs administered by State and local units of government.

(b) **MATTERS STUDIES.**—For purposes of subsection (a), the matters described in this subsection include the following:

(1) An assessment of Federal programs administered by State and local units of government, including local educational agencies, explicitly required to implement the administrative simplification requirements under provisions of the Health Insurance Portability and Accountability Act of 1996.

(2) An assessment of other Federal and non-Federal programs administered by State and local units of government, including local educational agencies, that will be required to implement the administrative simplification requirements of the Health Insurance Portability and Accountability Act of 1996 in order to exchange electronic health data with private sector providers and insurers.

(3) An analysis of the costs that will be incurred by State and local units of government, including local educational agencies, to implement the administrative simplification requirements of the Health Insurance Portability and Accountability Act of 1996 in programs described in paragraph (1) or (2).

(4) An analysis of Federal resources available to units of State and local government, including local educational agencies, for implementing the administrative simplification requirements of the Health Insurance Portability and Accountability Act of 1996 in programs described in paragraph (1) or (2).

(5) An assessment of guidance provided to State and local units of government, including local educational agencies, by the Centers for Medicare and Medicaid Services and the Department of Health and Human Services on the implementation of the administrative simplification requirements of the Health Insurance Portability and Accountability Act of 1996 in programs described in paragraph (1) or (2).

(6) An assessment of the coordination between the Centers for Medicare and Medicaid Services, the Department of Health and Human Services, and other Federal agencies on the implementation of the administrative simplification requirements of the Health Insurance Portability and Accountability Act of 1996 in Federal programs administered by State and local units of government, including local educational agencies, in programs described in paragraph (1) or (2).

(c) **DEFINITION.**—In this section, the term “administrative simplification requirements” means all standards for transactions, data elements for such transactions, unique health identifiers, code sets, security, and privacy issued pursuant to sections 262 and 264 of the Health Insurance Portability and Accountability Act of 1996.

SEC. 519. (a) DEFINITION.—In this section the term “qualified magistrate judge” means any person who—

(1) retired as a magistrate judge before November 15, 1988; and

(2) on the date of filing an election under subsection (b)—

(A) is serving as a recalled magistrate judge on a full-time basis under section 636(h) of title 28, United States Code; and

(B) has completed at least 5 years of full-time recall service.

(b) **ELECTION OF ANNUITY.**—The Director of the Administrative Office of the United States Courts may accept the election of a qualified magistrate judge to—

(1) receive an annuity under section 377 of title 28, United States Code; and

(2) come within the purview of section 376 of such title.

(c) **CREDIT FOR SERVICE.**—Full-time recall service performed by a qualified magistrate judge shall be credited for service in calculating an annuity elected under this section.

(d) **REGULATIONS.**—The Director of the Administrative Office of the United States Courts

may promulgate regulations to carry out this section.

SEC. 520. Nothing in section 134 of H.R. 2217 shall be construed to overturn or otherwise effect the decision of the U.S. Court of Appeals for the Tenth Circuit in the case of *Sac and Fox Nation v. Norton*, 240 F.3d 1250 (10th Cir.2001), or to permit gaming under the Indian Gaming Regulatory Act on lands described in section 123 of Public Law 106-291 or any lands contiguous to such lands that have or have not been taken into trust by the Secretary of the Interior.

SEC. 521. Amounts made available under this Act for the administrative and related expenses for departmental management for the Department of Labor, the Department of Health and Human Services, and the Department of Education, shall be reduced on a pro rata basis by \$98,500,000: Provided, That this provision shall not apply to the Food and Drug Administration and the Indian Health Service: Provided further, That not later than 15 days after the enactment of this Act, the Director of the Office of Management and Budget shall report to the Senate Committee on Appropriations the accounts subject to the pro rata reductions and the amount to be reduced in each account.

TITLE VI—EXTENSION OF MARK-TO-MARKET PROGRAM FOR MULTIFAMILY ASSISTED HOUSING

SEC. 601. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This title may be cited as the “Mark-to-Market Extension Act of 2001”.

(b) **TABLE OF CONTENTS.**—The table of contents for this title is as follows:

TITLE VI—EXTENSION OF MARK-TO-MARKET PROGRAM FOR MULTIFAMILY ASSISTED HOUSING

Sec. 601. Short title and table of contents.

Sec. 602. Purposes.

Sec. 603. Effective date.

Subtitle A—Multifamily Housing Mortgage and Assistance Restructuring and Section 8 Contract Renewal

Sec. 611. Definitions.

Sec. 612. Mark-to-market program amendments.

Sec. 613. Consistency of rent levels under enhanced voucher assistance and rent restructurings.

Sec. 614. Eligible inclusions for renewal rents of partially assisted buildings.

Sec. 615. Eligibility of restructuring projects for miscellaneous housing insurance.

Sec. 616. Technical corrections.

Subtitle B—Office of Multifamily Housing Assistance Restructuring

Sec. 621. Reauthorization of Office and extension of program.

Sec. 622. Appointment of Director.

Sec. 623. Vacancy in position of Director.

Sec. 624. Oversight by Federal Housing Commissioner.

Sec. 625. Limitation on subsequent employment.

Subtitle C—Miscellaneous Housing Program Amendments

Sec. 631. Extension of CDBG public services cap exception.

Sec. 632. Use of section 8 enhanced vouchers for prepayments.

Sec. 633. Prepayment and refinancing of loans for section 202 supportive housing.

Sec. 634. Technical correction.

SEC. 602. PURPOSES.

The purposes of this title are—

(1) to continue the progress of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (referred to in this section as “that Act”);

(2) to ensure that properties that undergo mortgage restructurings pursuant to that Act are rehabilitated to a standard that allows the properties to meet their long-term affordability requirements;

(3) to ensure that, for properties that undergo mortgage restructurings pursuant to that Act, reserves are set at adequate levels to allow the properties to meet their long-term affordability requirements;

(4) to ensure that properties that undergo mortgage restructurings pursuant to that Act are operated efficiently, and that operating expenses are sufficient to ensure the long-term financial and physical integrity of the properties;

(5) to ensure that properties that undergo rent restructurings have adequate resources to maintain the properties in good condition;

(6) to ensure that the Office of Multifamily Housing Assistance Restructuring of the Department of Housing and Urban Development continues to focus on the portfolio of properties eligible for restructuring under that Act;

(7) to ensure that the Department of Housing and Urban Development carefully tracks the condition of those properties on an ongoing basis;

(8) to ensure that tenant groups, nonprofit organizations, and public entities continue to have the resources for building the capacity of tenant organizations in furtherance of the purposes of subtitle A of that Act; and

(9) to encourage the Office of Multifamily Housing Assistance Restructuring to continue to provide participating administrative entities, including public participating administrative entities, with the flexibility to respond to specific problems that individual cases may present, while ensuring consistent outcomes around the country.

SEC. 603. EFFECTIVE DATE.

Except as provided in sections 616(a)(2), 633(b), and 634(b), this title and the amendments made by this title shall take effect or are deemed to have taken effect, as appropriate, on the earlier of—

(1) the date of the enactment of this title; or

(2) September 30, 2001.

Subtitle A—Multifamily Housing Mortgage and Assistance Restructuring and Section 8 Contract Renewal

SEC. 611. DEFINITIONS.

Section 512 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by adding at the end the following new paragraph:

“(19) **OFFICE.**—The term ‘Office’ means the Office of Multifamily Housing Assistance Restructuring established under section 571.”.

SEC. 612. MARK-TO-MARKET PROGRAM AMENDMENTS.

(a) **FUNDING FOR TENANT AND NONPROFIT PARTICIPATION.**—Section 514(f)(3)(A) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended—

(1) by striking “Secretary may provide not more than \$10,000,000 annually in funding” and inserting “Secretary shall make available not more than \$10,000,000 annually in funding, which amount shall be in addition to any amounts made available under this subparagraph and carried over from previous years,”; and

(2) by striking “entities), and for tenant services,” and inserting “entities), for tenant services, and for tenant groups, nonprofit organizations, and public entities described in section 517(a)(5).”.

(b) **EXCEPTION RENTS.**—Section 514(g)(2)(A) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by striking “restructured mortgages in any fiscal year” and inserting “portfolio restructuring agreements”.

(c) **NOTICE TO DISPLACED TENANTS.**—Section 516(d) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by striking “Subject to” and inserting the following:

“(1) **NOTICE TO CERTAIN RESIDENTS.**—The Office shall notify any tenant that is residing in a

project or receiving assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) at the time of rejection under this section, of such rejection, except that the Office may delegate the responsibility to provide notice under this paragraph to the participating administrative entity.

“(2) ASSISTANCE AND MOVING EXPENSES.—Subject to”.

(d) RESTRUCTURING PLANS FOR TRANSFERS OF PREPAYMENT PROJECTS.—The Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended—

(1) in section 524(e), by adding at the end the following new paragraph:

“(3) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLANS.—Notwithstanding paragraph (1), the owner of the project may request, and the Secretary may consider, mortgage restructuring and rental assistance sufficiency plans to facilitate sales or transfers of properties under this subtitle, subject to an approved plan of action under the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note) or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4101 et seq.), which plans shall result in a sale or transfer of those properties.”; and

(2) in the last sentence of section 512(2), by inserting “, but does include a project described in section 524(e)(3)” after “section 524(e)”.

(e) ADDITION OF SIGNIFICANT FEATURES.—Section 517 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended—

(1) by striking subsection (c) (except that the striking of such subsection may not be construed to have any effect on the provisions of law amended by such subsection, as such subsection was in effect before the date of the enactment of this Act);

(2) in subsection (b)—

(A) in paragraph (7), by striking “(7)” and inserting “(1)”; and

(B) by adding at the end the following new paragraph:

“(2) ADDITION OF SIGNIFICANT FEATURES.—

“(A) AUTHORITY.—An approved mortgage restructuring and rental assistance sufficiency plan may require the improvement of the project by the addition of significant features that are not necessary for rehabilitation to the standard provided under paragraph (1), such as air conditioning, an elevator, and additional community space. The Secretary shall establish guidelines regarding the inclusion of requirements regarding such additional significant features under such plans.

“(B) FUNDING.—Significant features added pursuant to an approved mortgage restructuring and rental assistance sufficiency plan may be paid from the funding sources specified in the first sentence of paragraph (1)(A).

“(C) LIMITATION ON OWNER CONTRIBUTION.—An owner of a project may not be required to contribute from non-project resources, toward the cost of any additional significant features required pursuant to this paragraph, more than 25 percent of the amount of any assistance received for the inclusion of such features.

“(D) APPLICABILITY.—This paragraph shall apply to all eligible multifamily housing projects, except projects for which the Secretary and the project owner executed a mortgage restructuring and rental assistance sufficiency plan on or before the date of the enactment of the Mark-to-Market Extension Act of 2001.”; and

(3) by inserting after paragraph (6) of subsection (b) the following:

“(c) REHABILITATION NEEDS AND ADDITION OF SIGNIFICANT FEATURES.—”.

(f) LOOK-BACK PROJECTS.—Section 512(2) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by adding after the period at the end of the last sentence the following: “Notwith-

standing any other provision of this title, the Secretary may treat a project as an eligible multifamily housing project for purposes of this title if (I) the project is assisted pursuant to a contract for project-based assistance under section 8 of the United States Housing Act of 1937 renewed under section 524 of this Act, (II) the owner consents to such treatment, and (III) the project met the requirements of the first sentence of this paragraph for eligibility as an eligible multifamily housing project before the initial renewal of the contract under section 524.”.

(g) SECOND MORTGAGES.—Section 517(a) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended—

(1) in paragraph (1)(B), by striking “no more than the” and inserting the following: “not more than the greater of—

“(i) the full or partial payment of claim made under this subtitle; or

“(ii) the”; and

(2) in paragraph (5), by inserting “of the second mortgage, assign the second mortgage to the acquiring organization or agency,” after “terms”.

(h) EXEMPTIONS FROM RESTRUCTURING.—Section 514(h)(2) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by inserting before the semicolon the following: “, or refinanced pursuant to section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note)”.

SEC. 613. CONSISTENCY OF RENT LEVELS UNDER ENHANCED VOUCHER ASSISTANCE AND RENT RESTRUCTURINGS.

Subtitle A of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by adding at the end the following new section:

“SEC. 525. CONSISTENCY OF RENT LEVELS UNDER ENHANCED VOUCHER ASSISTANCE AND RENT RESTRUCTURINGS.

“(a) IN GENERAL.—The Secretary shall examine the standards and procedures for determining and establishing the rent standards described under subsection (b). Pursuant to such examination, the Secretary shall establish procedures and guidelines that are designed to ensure that the amounts determined by the various rent standards for the same dwelling units are reasonably consistent and reflect rents for comparable unassisted units in the same area as such dwelling units.

“(b) RENT STANDARDS.—The rent standards described in this subsection are as follows:

“(1) ENHANCED VOUCHERS.—The payment standard for enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)).

“(2) MARK-TO-MARKET.—The rents derived from comparable properties, for purposes of section 514(g) of this Act.

“(3) CONTRACT RENEWAL.—The comparable market rents for the market area, for purposes of section 524(a)(4) of this Act.”.

SEC. 614. ELIGIBLE INCLUSIONS FOR RENEWAL RENTS OF PARTIALLY ASSISTED BUILDINGS.

Section 524(a)(4)(C) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by adding after the period at the end the following: “Notwithstanding any other provision of law, the Secretary shall include in such budget-based cost increases costs relating to the project as a whole (including costs incurred with respect to units not covered by the contract for assistance), but only (I) if inclusion of such costs is requested by the owner or purchaser of the project, (II) if inclusion of such costs will permit capital repairs to the project or acquisition of the project by a nonprofit organization, and (III) to the extent that inclusion of such costs (or a portion thereof) complies with the requirement under clause (ii).”.

SEC. 615. ELIGIBILITY OF RESTRUCTURING PROJECTS FOR MISCELLANEOUS HOUSING INSURANCE.

Section 223(a)(7) of the National Housing Act (12 U.S.C. 1715n(a)(7)) is amended—

(1) by striking “under this Act: Provided, That the principal” and inserting the following: “under this Act, or an existing mortgage held by the Secretary that is subject to a mortgage restructuring and rental assistance sufficiency plan pursuant to the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), provided that—

“(A) the principal”;

(2) by striking “except that (A)” and inserting “except that (i)”;;

(3) by striking “(B)” and inserting “(ii)”;;

(4) by striking “(C)” and inserting “(iii)”;;

(5) by striking “(D)” and inserting “(iv)”;;

(6) by striking “: Provided further, That a mortgage” and inserting the following “; and “(B) a mortgage”;

(7) by striking “or” at the end; and

(8) by adding at the end the following new subparagraph:

“(C) a mortgage that is subject to a mortgage restructuring and rental assistance sufficiency plan pursuant to the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) and is refinanced under this paragraph may have a term of not more than 30 years; or”.

SEC. 616. TECHNICAL CORRECTIONS.

(a) EXEMPTIONS FROM RESTRUCTURING.—

(1) IN GENERAL.—Section 514(h) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended to read as if the amendment made by section 531(c) of Public Law 106-74 (113 Stat. 1116) were made to “Section 514(h)(1)” instead of “Section 514(h)”.

(2) RETROACTIVE EFFECT.—The amendment made by paragraph (1) of this subsection is deemed to have taken effect on the date of the enactment of Public Law 106-74 (113 Stat. 1109).

(b) OTHER.—The Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended—

(1) in section 511(a)(12), by striking “this Act” and inserting “this title”;

(2) in section 513, by striking “this Act” each place such term appears in subsections (a)(2)(I) and (b)(3) and inserting “this title”;

(3) in section 514(f)(3)(B), by inserting “Housing” after “Multifamily”;

(4) in section 515(c)(1)(B), by inserting “or” after the semicolon;

(5) in section 517(b)—

(A) in each of paragraphs (1) through (6), by capitalizing the first letter of the first word that follows the paragraph heading;

(B) in each of paragraphs (1) through (5), by striking the semicolon at the end and inserting a period; and

(C) in paragraph (6), by striking “; and” at the end and inserting a period;

(6) in section 520(b), by striking “Banking and”; and

(7) in section 573(d)(2), by striking “Banking and”.

Subtitle B—Office of Multifamily Housing Assistance Restructuring

SEC. 621. REAUTHORIZATION OF OFFICE AND EXTENSION OF PROGRAM.

Section 579 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

“(a) REPEALS.—

“(1) MARK-TO-MARKET PROGRAM.—Subtitle A (except for section 524) is repealed effective October 1, 2006.

“(2) OMHAR.—Subtitle D (except for this section) is repealed effective October 1, 2004.”;

(2) in subsection (b), by striking “October 1, 2001” and inserting “October 1, 2006”;

(3) in subsection (c), by striking “upon September 30, 2001” and inserting “at the end of September 30, 2004”; and

(4) by striking subsection (d) and inserting the following new subsection:

“(d) **TRANSFER OF AUTHORITY.**—Effective upon the repeal of subtitle D under subsection (a)(2) of this section, all authority and responsibilities to administer the program under subtitle A are transferred to the Secretary.”.

SEC. 622. APPOINTMENT OF DIRECTOR.

(a) **IN GENERAL.**—Section 572 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by striking subsection (a) and inserting the following new subsection:

“(a) **APPOINTMENT.**—The Office shall be under the management of a Director, who shall be appointed by the President from among individuals who are citizens of the United States and have a demonstrated understanding of financing and mortgage restructuring for affordable multifamily housing.”.

(b) **APPLICABILITY.**—The amendment made by subsection (a) shall apply to the first Director of the Office of Multifamily Housing Assistance Restructuring of the Department of Housing and Urban Development appointed after the date of the enactment of this Act, and any such Director appointed thereafter.

SEC. 623. VACANCY IN POSITION OF DIRECTOR.

(a) **IN GENERAL.**—Section 572 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by striking subsection (b) and inserting the following new subsection:

“(b) **VACANCY.**—A vacancy in the position of Director shall be filled by appointment in the manner provided under subsection (a). The President shall make such an appointment not later than 60 days after such position first becomes vacant.”.

(b) **APPLICABILITY.**—The amendment made by subsection (a) shall apply to any vacancy in the position of Director of the Office of Multifamily Housing Assistance Restructuring of the Department of Housing and Urban Development which occurs or exists after the date of the enactment of this Act.

SEC. 624. OVERSIGHT BY FEDERAL HOUSING COMMISSIONER.

(a) **IN GENERAL.**—Section 578 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended to read as follows:

“SEC. 578. OVERSIGHT BY FEDERAL HOUSING COMMISSIONER.

“All authority and responsibilities assigned under this subtitle to the Secretary shall be carried out through the Assistant Secretary of the Department of Housing and Urban Development who is the Federal Housing Commissioner.”.

(b) **REPORT.**—The second sentence of section 573(b) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by striking “Secretary” and inserting “Assistant Secretary of the Department of Housing and Urban Development who is the Federal Housing Commissioner”.

SEC. 625. LIMITATION ON SUBSEQUENT EMPLOYMENT.

Section 576 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by striking “2-year period” and inserting “1-year period”.

Subtitle C—Miscellaneous Housing Program Amendments

SEC. 631. EXTENSION OF CDBG PUBLIC SERVICES CAP EXCEPTION.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended by striking “through 2001” and inserting “through 2003”.

SEC. 632. USE OF SECTION 8 ENHANCED VOUCHERS FOR PREPAYMENTS.

Section 8(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)(2)) is amended by

inserting after “insurance contract for the mortgage for such housing project” the following: “(including any such mortgage prepayment during fiscal year 1996 or a fiscal year thereafter or any insurance contract voluntary termination during fiscal year 1996 or a fiscal year thereafter)”.

SEC. 633. PREPAYMENT AND REFINANCING OF LOANS FOR SECTION 202 SUPPORTIVE HOUSING.

(a) **IN GENERAL.**—Section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended by striking subsection (e).

(b) **EFFECTIVENESS UPON DATE OF ENACTMENT.**—The amendment made by subsection (a) of this section shall take effect upon the date of the enactment of this Act and the provisions of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note), as amended by subsection (a) of this section, shall apply as so amended upon such date of enactment, notwithstanding—

(1) any authority of the Secretary of Housing and Urban Development to issue regulations to implement or carry out the amendments made by subsection (a) of this section or the provisions of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note); or

(2) any failure of the Secretary of Housing and Urban Development to issue any such regulations authorized.

SEC. 634. TECHNICAL CORRECTION.

(a) **IN GENERAL.**—Section 101(a) of Public Law 100-77 (42 U.S.C. 11301 note) is amended to read as if the amendment made by section 1 of Public Law 106-400 (114 Stat. 1675) were made to “Section 101” instead of “Section 1”.

(b) **RETROACTIVE EFFECT.**—The amendment made by subsection (a) of this section is deemed to have taken effect immediately after the enactment of Public Law 106-400 (114 Stat. 1675).

TITLE VII—MENTAL HEALTH EQUITY

SEC. 701. SHORT TITLE.

This title may be cited as the “Mental Health Equitable Treatment Act of 2001”.

SEC. 702. AMENDMENT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) **IN GENERAL.**—Section 712 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a) is amended to read as follows:

“SEC. 712. MENTAL HEALTH PARITY.

“(a) **IN GENERAL.**—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, such plan or coverage shall not impose any treatment limitations or financial requirements with respect to the coverage of benefits for mental illnesses unless comparable treatment limitations or financial requirements are imposed on medical and surgical benefits.

“(b) **CONSTRUCTION.**—

“(1) **IN GENERAL.**—Nothing in this section shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any mental health benefits.

“(2) **MEDICAL MANAGEMENT OF MENTAL HEALTH BENEFITS.**—Consistent with subsection (a), nothing in this section shall be construed to prevent the medical management of mental health benefits, including through concurrent and retrospective utilization review and utilization management practices, preauthorization, and the application of medical necessity and appropriateness criteria applicable to behavioral health and the contracting and use of a network of participating providers.

“(3) **NO REQUIREMENT OF SPECIFIC SERVICES.**—Nothing in this section shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide coverage for specific mental

health services, except to the extent that the failure to cover such services would result in a disparity between the coverage of mental health and medical and surgical benefits.

“(c) **SMALL EMPLOYER EXEMPTION.**—

“(1) **IN GENERAL.**—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of any employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year.

“(2) **APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.**—For purposes of this subsection—

“(A) **APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.**—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

“(B) **EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.**—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

“(C) **PREDECESSORS.**—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

“(d) **SEPARATE APPLICATION TO EACH OPTION OFFERED.**—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

“(e) **IN-NETWORK AND OUT-OF-NETWORK RULES.**—In the case of a plan or coverage option that provides in-network mental health benefits, out-of-network mental health benefits may be provided using treatment limitations or financial requirements that are not comparable to the limitations and requirements applied to medical and surgical benefits if the plan or coverage provides such in-network mental health benefits in accordance with subsection (a) and provides reasonable access to in-network providers and facilities.

“(f) **DEFINITIONS.**—For purposes of this section—

“(1) **FINANCIAL REQUIREMENTS.**—The term ‘financial requirements’ includes deductibles, co-insurance, co-payments, other cost sharing, and limitations on the total amount that may be paid by a participant or beneficiary with respect to benefits under the plan or health insurance coverage and shall include the application of annual and lifetime limits.

“(2) **MEDICAL OR SURGICAL BENEFITS.**—The term ‘medical or surgical benefits’ means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include mental health benefits.

“(3) **MENTAL HEALTH BENEFITS.**—The term ‘mental health benefits’ means benefits with respect to services, as defined under the terms and conditions of the plan or coverage (as the case may be), for all categories of mental health conditions listed in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM IV-TR), or the most recent edition if different than the Fourth Edition, if such services are included as part of an authorized treatment plan that is in accordance with standard protocols and such services meet the plan or issuer’s medical necessity criteria. Such term does not include benefits with respect to the treatment of substance abuse or chemical dependency.

“(4) **TREATMENT LIMITATIONS.**—The term ‘treatment limitations’ means limitations on the frequency of treatment, number of visits or days of coverage, or other similar limits on the duration or scope of treatment under the plan or coverage.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on January 1,

2003 and shall apply with respect to plan years beginning on or after such date.

SEC. 703. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Section 2705 of the Public Health Service Act (42 U.S.C. 300gg-5) is amended to read as follows:

“SEC. 2705. MENTAL HEALTH PARITY.

“(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, such plan or coverage shall not impose any treatment limitations or financial requirements with respect to the coverage of benefits for mental illnesses unless comparable treatment limitations or financial requirements are imposed on medical and surgical benefits.

“(b) CONSTRUCTION.—

“(1) IN GENERAL.—Nothing in this section shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any mental health benefits.

“(2) MEDICAL MANAGEMENT OF MENTAL HEALTH BENEFITS.—Consistent with subsection (a), nothing in this section shall be construed to prevent the medical management of mental health benefits, including through concurrent and retrospective utilization review and utilization management practices, preauthorization, and the application of medical necessity and appropriateness criteria applicable to behavioral health and the contracting and use of a network of participating providers.

“(3) NO REQUIREMENT OF SPECIFIC SERVICES.—Nothing in this section shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide coverage for specific mental health services, except to the extent that the failure to cover such services would result in a disparity between the coverage of mental health and medical and surgical benefits.

“(c) SMALL EMPLOYER EXEMPTION.—

“(1) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of any employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year.

“(2) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection—

“(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

“(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

“(C) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

“(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

“(e) IN-NETWORK AND OUT-OF-NETWORK RULES.—In the case of a plan or coverage option that provides in-network mental health benefits, out-of-network mental health benefits may be provided using treatment limitations or financial requirements that are not comparable to the limitations and requirements applied to medical

and surgical benefits if the plan or coverage provides such in-network mental health benefits in accordance with subsection (a) and provides reasonable access to in-network providers and facilities.

“(f) DEFINITIONS.—For purposes of this section—

“(1) FINANCIAL REQUIREMENTS.—The term ‘financial requirements’ includes deductibles, co-insurance, co-payments, other cost sharing, and limitations on the total amount that may be paid by a participant, beneficiary or enrollee with respect to benefits under the plan or health insurance coverage and shall include the application of annual and lifetime limits.

“(2) MEDICAL OR SURGICAL BENEFITS.—The term ‘medical or surgical benefits’ means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include mental health benefits.

“(3) MENTAL HEALTH BENEFITS.—The term ‘mental health benefits’ means benefits with respect to services, as defined under the terms and conditions of the plan or coverage (as the case may be), for all categories of mental health conditions listed in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM IV-TR), or the most recent edition if different than the Fourth Edition, if such services are included as part of an authorized treatment plan that is in accordance with standard protocols and such services meet the plan or issuer’s medical necessity criteria. Such term does not include benefits with respect to the treatment of substance abuse or chemical dependency.

“(4) TREATMENT LIMITATIONS.—The term ‘treatment limitations’ means limitations on the frequency of treatment, number of visits or days of coverage, or other similar limits on the duration or scope of treatment under the plan or coverage.”

(b) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 2003 and shall apply with respect to plan years beginning on or after such date.

SEC. 704. PREEMPTION.

Nothing in the amendments made by this title shall be construed to preempt any provision of State law, with respect to health insurance coverage offered by a health insurance issuer in connection with a group health plan, that provides protections to enrollees that are greater than the protections provided under such amendments. Nothing in the amendments made by this title shall be construed to affect or modify section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 705. GENERAL ACCOUNTING OFFICE STUDY.

(a) STUDY.—The Comptroller General shall conduct a study that evaluates the effect of the implementation of the amendments made by this title on the cost of health insurance coverage, access to health insurance coverage (including the availability of in-network providers), the quality of health care, and other issues as determined appropriate by the Comptroller General.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to the appropriate committees of Congress a report containing the results of the study conducted under subsection (a).

SEC. 706. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) IN GENERAL.—Nothing in this title (or an amendment made by this title) shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this title has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that

the enactment of this title has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such title.

SEC. 707. CONGRESSIONAL BUDGET ACT.

Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105-217, the provisions of this title that would have been estimated by the Office of Management and Budget as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 were it included in an Act other than an appropriations Act shall be treated as direct spending or receipts legislation, as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, and by the Chairman of the Senate Budget Committee, as appropriate, under the Congressional Budget Act.

TITLE VIII—INFORMATION ON PASSENGERS AND CARGO

SEC. 801. MANDATORY ADVANCED ELECTRONIC INFORMATION FOR AIR CARGO AND PASSENGERS ENTERING THE UNITED STATES.

(a) AIR CARGO INFORMATION.—

(1) IN GENERAL.—Section 431(b) of the Tariff Act of 1930 (19 U.S.C. 1431(b)) is amended—

(A) by striking “(b) PRODUCTION OF MANIFEST.—Any manifest” and inserting the following:

“(b) PRODUCTION OF MANIFEST.—

“(1) IN GENERAL.—Any manifest”;

(B) by indenting the margin of paragraph (1), as so designated, two ems; and

(C) by adding at the end the following new paragraph:

“(2) ADDITIONAL INFORMATION.—

“(A) IN GENERAL.—In addition to any other requirement under this section, every air carrier required to make entry or obtain clearance under the customs laws of the United States, the pilot, the master, operator, or owner of such carrier (or the authorized agent of such owner or operator) shall provide by electronic transmission cargo manifest information specified in subparagraph (B) in advance of such entry or clearance in such manner, time, and form as the Secretary shall prescribe. The Secretary may exclude any class of air carrier for which the Secretary concludes the requirements of this subparagraph are not necessary.

“(B) INFORMATION REQUIRED.—The information specified in this subparagraph is as follows:

“(i) The port of arrival or departure, whichever is applicable.

“(ii) The carrier code, prefix code, or, both.

“(iii) The flight or trip number.

“(iv) The date of scheduled arrival or date of scheduled departure, whichever is applicable.

“(v) The request for permit to proceed to the destination, if applicable.

“(vi) The numbers and quantities from the master and house air waybill or bills of lading.

“(vii) The first port of lading of the cargo.

“(viii) A description and weight of the cargo.

“(ix) The shippers name and address from all air waybills or bills of lading.

“(x) The consignee name and address from all air waybills or bills of lading.

“(xi) Notice that actual boarded quantities are not equal to air waybill or bills of lading quantities.

“(xii) Transfer or transit information.

“(xiii) Warehouse or other location of the cargo.

“(xiv) Such other information as the Secretary, by regulation, determines is reasonably necessary to ensure aviation transportation

safety pursuant to the laws enforced or administered by the Customs Service.

“(3) **AVAILABILITY OF INFORMATION.**—Information provided under paragraph (2) may be shared with other departments and agencies of the Federal Government, including the Department of Transportation and the law enforcement agencies of the Federal Government, for purposes of protecting the national security of the United States.”.

(2) **CONFORMING AMENDMENTS.**—Subparagraphs (A) and (C) of section 431(d)(1) of such Act are each amended by inserting before the semicolon “or subsection (b)(2)”.

(b) **PASSENGER INFORMATION.**—Part II of title IV of the Tariff Act of 1930 is amended by inserting after section 431 the following new section:

“SEC. 432. PASSENGER AND CREW MANIFEST INFORMATION REQUIRED FOR AIR CARRIERS.

“(a) **IN GENERAL.**—For every person arriving or departing on an air carrier required to make entry or obtain clearance under the customs laws of the United States, the pilot, the master, operator, or owner of such carrier (or the authorized agent of such owner or operator) shall provide, by electronic transmission, manifest information specified in subsection (b) in advance of such entry or clearance in such manner, time, and form as the Secretary shall prescribe.

“(b) **INFORMATION.**—The information specified in this subsection with respect to a person is—

“(1) full name;

“(2) date of birth and citizenship;

“(3) sex;

“(4) passport number and country of issuance;

“(5) United States visa number or resident alien card number, as applicable;

“(6) passenger name record; and

“(7) such other information as the Secretary, by regulation, determines is reasonably necessary to ensure aviation transportation safety pursuant to the laws enforced or administered by the Customs Service.

“(c) **AVAILABILITY OF INFORMATION.**—Information provided under this section may be shared with other departments and agencies of the Federal Government, including the Department of Transportation and the law enforcement agencies of the Federal Government, for purposes of protecting the national security of the United States.”.

(c) **DEFINITION.**—Section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) is amended by adding at the end the following new subsection:

“(t) **AIR CARRIER.**—The term ‘air carrier’ means an air carrier transporting goods or passengers for payment or other consideration, including money or services rendered.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect 45 days after the date of enactment of this Act.

This Act may be cited as the “Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002”.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action, and the Chair appoints Mr. HARKIN, Mr. HOLLINGS, Mr. INOUE, Mr. REID, Mr. KOHL, Mrs. MURRAY, Ms. LANDRIEU, Mr. BYRD, Mr. SPECTER, Mr. COCHRAN, Mr. GREGG, Mr. CRAIG, Mrs. HUTCHISON, Mr. STEVENS, and Mr. DEWINE, conferees on the part of the Senate.

EXECUTIVE SESSION

NOMINATION OF M. CHRISTINA ARMIJO, OF NEW MEXICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session to consider Calendar No. 512, which the clerk will report.

The legislative clerk read the nomination of M. Christina Armijo, of New Mexico, to be United States District Judge for the District of New Mexico.

Mr. LEAHY. Mr. President, I urge all Senators to vote for Ms. Armijo.

I also thank both Senator DOMENICI and Senator BINGAMAN for working with the committee and with the President to help complete her confirmation. In fact, when she is confirmed, we will have confirmed as many district judges since July as we confirmed in the entire first year of the first Bush administration.

I thank the Senators for working together. It made our job much easier. Both Senators strongly support her.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The question is, Will the Senate advise and consent to the nomination of M. Christina Armijo, of New Mexico, to be United States District Judge for the District of New Mexico? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 325 Ex.]

YEAS—100

Akaka	Domenici	Lieberman
Allard	Dorgan	Lincoln
Allen	Durbin	Lott
Baucus	Edwards	Lugar
Bayh	Ensign	McCain
Bennett	Enzi	McConnell
Biden	Feingold	Mikulski
Bingaman	Feinstein	Miller
Bond	Fitzgerald	Murkowski
Boxer	Frist	Murray
Breaux	Graham	Nelson (FL)
Brownback	Gramm	Nelson (NE)
Bunning	Grassley	Nickles
Burns	Gregg	Reed
Byrd	Hagel	Reid
Campbell	Harkin	Roberts
Cantwell	Hatch	Rockefeller
Carnahan	Helms	Santorum
Carper	Hollings	Sarbanes
Chafee	Hutchinson	Schumer
Cleland	Hutchison	Sessions
Clinton	Inhofe	Shelby
Cochran	Inouye	Smith (NH)
Collins	Jeffords	Smith (OR)
Conrad	Johnson	Snowe
Corzine	Kennedy	Specter
Craig	Kerry	Stabenow
Crapo	Kohl	Stevens
Daschle	Kyl	Thomas
Dayton	Landrieu	Thompson
DeWine	Leahy	
Dodd	Levin	

Thurmond	Voinovich	Wellstone
Torricelli	Warner	Wyden

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

The Senator from Nevada is recognized.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that at 5:30 p.m. today the Senate proceed to executive session to consider Executive Calendars Nos. 513 and 514; that there be 5 minutes for debate equally divided between the chairman and ranking member; that upon the use or yielding back of that time, the Senate vote on the confirmation of each of these nominations; that upon disposition of the nominations the President be immediately notified of the Senate's action, and the Senate return to legislative session.

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

YEAS AND NAYS

Mr. REID. Mr. President, as in executive session, I ask unanimous consent that it be in order to request the yeas and nays on the two nominations with one show of seconds.

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

Mr. REID. Mr. President, prior to moving to the bill—we have the managers here on the DC bill—there has been conversation with the minority. The two managers have spoken, and we have every hope of finishing this bill early tomorrow. There are at least two amendments at this time. There has been a tentative agreement on time for those amendments, and it appears that we can start them early in the morning and finish them shortly thereafter. Hopefully, there would be nothing more.

At the appropriate time, we will have a unanimous consent in relation to the whole bill.

Mr. President, I ask for the yeas and nays on the nominations.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2002

The PRESIDING OFFICER. Under the previous order, the committee is discharged from the consideration of H.R. 2944, and the Senate will proceed to its consideration. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2944) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, and for other purposes.