Public Law 102-229
102d Congress

Joint Resolution

Making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes.

Dec. 12, 1991
[H.J. Res. 157]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide dire emergency supplemental appropriations for the fiscal year ending September 30, 1992, and for other purposes, namely:

Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of "Operation Desert Shield/Desert Storm" Act of 1992.

SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY PROCUREMENT

Missile Procurement, Army

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Missile procurement, Army", $78,000,000, to remain available for obligation until September 30, 1994, and in addition, $67,000,000, to be derived by transfer from "Missile procurement, Air Force, 1991/1993", to remain available for obligation until September 30, 1993.

Shipbuilding and Conversion, Navy

For an additional amount for "Shipbuilding and conversion, Navy", for LSD-41 dock landing ship, cargo variant program, advance procurement of engines and generators, $25,000,000, to remain available for obligation until September 30, 1996.

National Guard and Reserve Equipment

For an additional amount for "National Guard and Reserve equipment", $10,100,000, to remain available until September 30, 1994, for the purchase of one MH-60G helicopter.

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TITLE I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF DEFENSE—MILITARY

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF ADDITIONAL FUNDS)

For additional incremental costs of the Department of Defense, the Department of Veterans Affairs, and the Department of Transportation associated with operations in and around the Persian Gulf as part of operations currently known as Operation Desert Shield (including Operation Desert Storm) and under the terms and conditions of the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102-28), in addition to the amounts that may be transferred to appropriations available to the Department of Defense and other Departments pursuant to that Act, not to exceed $3,968,500,000 may be transferred during fiscal year 1992 from either the Defense Cooperation Account, or as appropriate, the Persian Gulf Regional Defense Fund, to the following accounts in not to exceed the following amounts:

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army", $227,300,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $270,000,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and maintenance, Marine Corps", $75,000,000.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and maintenance, Army Reserve", $23,200,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and maintenance, Navy Reserve", $28,300,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and maintenance, Army National Guard", $41,900,000.

PROCUREMENT

(TRANSFER OF FUNDS)

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft procurement, Army", $270,800,000, to remain available for obligation until September 30, 1994.

MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile procurement, Army", $21,800,000, to remain available for obligation until September 30, 1994.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of weapons and tracked combat vehicles, Army", $63,000,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, ARMY

For an additional amount for "Other procurement, Army", $80,500,000, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft procurement, Navy", $521,000,000, to remain available for obligation until September 30, 1994.

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons procurement, Navy", $8,100,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, NAVY

For an additional amount for "Other procurement, Navy", $112,700,000, to remain available for obligation until September 30, 1994.

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", $4,300,000, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft procurement, Air Force", $309,500,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other procurement, Air Force", $560,000,000, to remain available for obligation until September 30, 1994.

PROCUREMENT, DEFENSE AGENCIES

For an additional amount for "Procurement, Defense Agencies", $76,900,000, to remain available for obligation until September 30, 1994.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

(TRANSFER OF FUNDS)

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, development, test and evaluation, Army", $47,800,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, development, test and evaluation, Navy", $6,100,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, development, test and evaluation, Air Force", $24,300,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

For an additional amount for "Research, development, test and evaluation, Defense Agencies", $28,100,000, to remain available for obligation until September 30, 1993.

DEFENSE BUSINESS OPERATIONS FUND

(TRANSFER OF FUNDS)

For an additional amount for "Defense business operations fund", $1,140,000,000.

DEPARTMENT OF TRANSPORTATION

(TRANSFER OF FUNDS)

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $17,900,000, to remain available for obligation until expended.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

(TRANSFER OF FUNDS)

For an additional amount for "Medical care", $10,000,000.

DEPARTMENT OF DEFENSE—MILITARY

(TRANSFER OF EXISTING FUNDS)

For the purpose of adjusting amounts which may be transferred pursuant to the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102-28) and under the terms and conditions of that Act, during the fiscal year 1992, the Secretary of Defense may make adjustments to the amounts provided for transfer by such Act in amounts not to exceed $6,282,400,000 and provide for the transfer of such amounts to the following accounts in not to exceed the following amounts to be available to the Department of Defense during fiscal year 1992: *Provided,* That the Secretary of Defense shall provide prior notification to the Committees on Appropriations of the House of Representatives and the Senate indicating the accounts from which the funds will be derived for such transfers:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

MILITARY PERSONNEL, ARMY

To be derived by transfer, $685,000,000 for "Military personnel, Army".

MILITARY PERSONNEL, NAVY

To be derived by transfer, $70,000,000 for "Military personnel, Navy".

MILITARY PERSONNEL, MARINE CORPS

To be derived by transfer, $18,000,000 for "Military personnel, Marine Corps".

MILITARY PERSONNEL, AIR FORCE

To be derived by transfer, $81,000,000 for "Military personnel, Air Force".

RESERVE PERSONNEL, ARMY

To be derived by transfer, $80,000,000 for "Reserve personnel, Army".

RESERVE PERSONNEL, AIR FORCE

To be derived by transfer, $4,000,000 for "Reserve personnel, Air Force".

NATIONAL GUARD PERSONNEL, ARMY

To be derived by transfer, $10,000,000 for "National Guard personnel, Army".

NATIONAL GUARD PERSONNEL, AIR FORCE

To be derived by transfer, $3,000,000 for "National Guard personnel, Air Force".

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

To be derived by transfer, $2,717,500,000 for "Operation and maintenance, Army".

OPERATION AND MAINTENANCE, NAVY

To be derived by transfer, $1,080,000,000 for "Operation and maintenance, Navy".

OPERATION AND MAINTENANCE, MARINE CORPS

To be derived by transfer, $165,000,000 for "Operation and maintenance, Marine Corps".

OPERATION AND MAINTENANCE, AIR FORCE

To be derived by transfer, $1,241,400,000 for "Operation and maintenance, Air Force".

OPERATION AND MAINTENANCE, ARMY RESERVE

To be derived by transfer, $6,000,000 for "Operation and maintenance, Army Reserve".

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

To be derived by transfer, $59,200,000 for "Operation and maintenance, Air Force Reserve".

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

To be derived by transfer, $3,600,000 for "Operation and maintenance, Army National Guard".

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

To be derived by transfer, $58,700,000 for "Operation and maintenance, Air National Guard".

GENERAL PROVISIONS—CHAPTER I

SEC. 101. The prohibition in section 132(a)(2) of Public Law 101-189 (103 Stat. 1383) does not apply to the obligation of $70,200,000 provided in "Aircraft procurement, Army" of chapter I, title I for the procurement of AH-64 Apache attack helicopters.

SEC. 102. Of the funds provided in title III of Public Law 101-165 for "Other procurement, Air Force", not more than $80,000,000 shall be available, and may be obligated and expended, for costs arising from the cancellation of the Alaskan OTH-B radar program and powerplant lease: *Provided,* That such funds will be available for contract termination, site restoration, modification of facilities and other costs associated with the termination of the Alaskan OTH-B radar program and powerplant lease, or the transfer and modification of facilities and material located at or procured for the Alaskan OTH-B radar program or powerplant to any other Department of Defense activity or program at the OTH-B radar powerplant site.

KURDISH PROTECTION FORCE

(TRANSFER OF FUNDS)

SEC. 103. In addition to other transfer authority granted by this or any other Act, and under the terms and conditions of the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102-28), the Secretary of Defense may transfer not to exceed $100,000,000 for costs incurred during fiscal years 1991 and 1992 from the Defense Cooperation Account, or as appropriate, the Persian Gulf Regional Defense Fund to appropriate Department of Defense appropriations for costs incurred through February 1992 in support of United States military forces in and around Iraq and Turkey known as the Kurdish Protection or Ready Reaction Force.

RESTRICTION ON ARMS SALES TO SAUDI ARABIA AND KUWAIT

SEC. 104. (a) No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full, either in cash or in mutually agreed in-kind contributions, the following commitments made to the United States to support Operation Desert Shield/Desert Storm: 22 USC 2751 note.

(1) In the case of Saudi Arabia, $16,839,000,000.

(2) In the case of Kuwait, $16,006,000,000.

(b) For purposes of this section, the term "any sale" means any sale with respect to which the President is required to submit a numbered certification to the Congress pursuant to the Arms Export Control Act on or after the effective date of this section.

(c) This section shall take effect 120 days after the date of enactment of this joint resolution. Effective date.

(d) Any military equipment of the United States, including battle tanks, armored combat vehicles, and artillery, included within the Conventional Forces in Europe Treaty definition of "conventional armaments and equipment limited by the Treaty", which may be transferred to any other NATO country shall be subject to the notification procedures stated in section 523 of Public Law 101-513 and in section 634A of the Foreign Assistance Act of 1961.

MIDDLE EAST HUMANITARIAN RELIEF

SEC. 105. (a) Of the funds appropriated from the Defense Cooperation Account for the Kurdish Ready Reaction Force, up to $15,000,000 may be made available only for the prepositioning of

relief supplies in the Middle East to meet emergency Kurdish and other Iraqi-related humanitarian needs and related transportation costs.

(b) In addition, the Secretary of Defense may transfer up to $15,000,000 in additional funds from the Defense Cooperation Account to the appropriate appropriations accounts within the Department of Defense for these Kurdish and other Iraqi-related humanitarian purposes.

CLASSIFIED PROGRAM

SEC. 106. (a) In section 110 of the Classified Annex incorporated into the Department of Defense Appropriations Act, 1992, the matter beginning with "Notwithstanding" and ending with *"Provided,* That" shall have no force or effect.

(b) The funds described in section 110 of such Classified Annex may be obligated for the program described therein only in accordance with the Classified Annex incorporated into the National Defense Authorization Act for Fiscal Years 1992 and 1993.

SEC. 107. None of the funds available to the Department of Defense in fiscal year 1992 may be used by the Department of the Army to award a contract for the procurement of four-ton dolly jacks if such equipment is or would be manufactured outside the United States of America and would be procured under any contract, agreement, arrangement, compact or other such instrument for which any provisions including price differential provisions of the Buy American Act of 1933, as amended, or any other Federal buy national law was waived: *Provided,* That the Secretary of the Army may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

(TRANSFER OF FUNDS)

SEC. 108. In addition to other transfer authority available to the Department of Defense, the Secretary of Defense may transfer from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, not to exceed $400,000,000, to the appropriate accounts within the Department of Defense for reducing the Soviet nuclear threat and for the purposes set forth in the Soviet Nuclear Threat Reduction Act of 1991 contained in H.R. 3807, as passed the Senate on November 25, 1991, and under the terms and conditions of such Act: *Provided,* That the readiness of the United States Armed Forces shall not be diminished by such transfer of funds.

(TRANSFER OF FUNDS)

SEC. 109. In addition to other transfer authority available to the Department of Defense, the Secretary of Defense, upon the declaration of an emergency by the President under the terms of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, may transfer from amounts appropriated to the Department of Defense for fiscal year 1992 or from balances in working capital accounts established under section 2208 of title 10, United

States Code, not to exceed $100,000,000, to the appropriate accounts within the Department of Defense, in order to transport by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, or its Republics, or localities therein—with the consent of the relevant Republic government or its independent successor—in order to address emergency conditions which may arise therein, and for the purposes set forth in section 301 of H.R. 3807, as passed the Senate on November 25, 1991, and under the terms and conditions of such section 301 of H.R. 3807: *Provided,* That the readiness of the United States Armed Forces shall not be diminished by such transfer of funds: *Provided further,* That the Committees on Appropriations be notified of transfers under this provision fifteen days in advance.

CHAPTER II

DEPARTMENT OF VETERANS AFFAIRS

ADMINISTRATIVE PROVISION

Section 518(a) of the "General Provisions" in H.R. 2519, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, is amended by striking out "Section 662A(c)" and inserting in lieu thereof "Section 1722A(c)". *Ante,* p. 779.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ADMINISTRATIVE PROVISION—HOME

Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(1) in the first sentence of paragraph (1), by inserting "and after reserving amounts for the insular areas under paragraph (3)" before the first comma; and

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

"(3) INSULAR AREAS.—For each fiscal year, of any amounts approved in appropriations Acts to carry out this title, the Secretary shall reserve for grants to the insular areas the greater of (A) $750,000, or (B) 0.5 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.". Regulations.

Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended—

(1) in paragraph (1), by striking "Guam" and all that follows through "American Samoa,"; and

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

"(24) The term 'insular area' means any of the following: Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.".

ADMINISTRATIVE PROVISION—STAFFING

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (H.R. 2519), is amended—

(1) in the appropriating paragraph entitled "Personal Services and Travel, Office of Public and Indian Housing" by striking "$10,424,000" and inserting in lieu thereof "$12,788,000" each time it appears in the paragraph;

Ante, p. 753.

(2) in the appropriating paragraph entitled "Personal Services and Travel, Office of Policy Development and Research" by striking "$10,705,000" and inserting in lieu thereof "$8,717,000" each time it appears in the paragraph; and

Ante, p. 754.

(3) in the appropriating paragraph entitled "Personal Services and Travel, Office of General Counsel" by striking "$14,985,000" and inserting in lieu thereof "$14,609,000" each time it appears in the paragraph.

Ante, p. 754.

INDEPENDENT AGENCIES

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

Of the funds made available under this head in Public Law 102-139, not to exceed $950,000, to remain available until September 30, 1993, shall be available for the purpose of providing financial assistance (through grant or contract made, to the maximum extent feasible, not later than 150 days after enactment of this Act) to facilitate the furnishing of legal and other assistance, without charge, to veterans and other persons who are unable to afford the cost of legal representation in connection with decisions to which section 7252(a) of title 38, United States Code, may apply, or with other proceedings in the Court, through a program that furnishes case screening and referral, training and education for attorney and related personnel, and encouragement and facilitation of pro bono representation by members of the bar and law school clinical and other appropriate programs, such as veterans service organizations, and through defraying expenses incurred in providing representation to such persons: *Provided,* That such grants or contracts shall be made by the Legal Services Corporation pursuant to a reimbursable payment from the United States Court of Veterans Appeals for the purposes described herein: *Provided further,* That the Legal Services Corporation is authorized to receive a reimbursable payment from the United States Court of Veterans Appeals for the purpose of providing the financial assistance described herein: *Provided further,* That no funds made available herein shall be used for the payment of attorney fees: *Provided further,* That, not later than 180 days after the enactment of this Act, and, again, not later than one year after a grant or contract is made pursuant to the provisions of this paragraph, the Legal Services Corporation and the United States Court of Veterans Appeals shall report to the appropriate committees of the Congress regarding the implementation of the provisions of this paragraph.

Grants.
Contracts.

Reports.

ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATIVE PROVISION

Of the funds appropriated for the wastewater treatment facilities fund under title VI of the Federal Water Pollution Control Act, up to one-half of one per centum may be made available by the Administrator for direct grants to Indian tribes for construction of wastewater treatment facilities.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For emergency disaster assistance payments necessary to provide for expenses in presidentially-declared disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, an additional amount for "Disaster relief", $943,000,000, to remain available until expended, of which $143,000,000 shall be available only after submission to the Congress of a formal budget request by the President designating the $143,000,000 as an emergency: *Provided,* That up to $1,250,000 of the funds made available under this heading may be transferred to, and merged with, amounts made available to the Federal Emergency Management Agency under the heading "Salaries and expenses" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139): *Provided further,* That hereafter, beginning in fiscal year 1993, and in each year thereafter, notwithstanding any other provision of law, all amounts appropriated for disaster assistance payments under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that are in excess of either the historical annual average obligation of $320,000,000, or the amount submitted in the President's initial budget request, whichever is lower, shall be considered as "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, and such amounts shall hereafter be so designated. 42 USC 5203.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

The last proviso under this heading in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (Public Law 101-144), is hereby deleted. 103 Stat. 861.

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For necessary expenses of the National Commission on Severely Distressed Public Housing, in carrying out its functions under title V of the Department of Housing and Urban Development Reform

Act of 1989 (Public Law 101-235), $250,000, to remain available until expended, to be derived by transfer from amounts provided to the Department of Housing and Urban Development under the heading "Salaries and expenses" in Public Law 102-139.

CHAPTER III

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

7 USC 1421 note.

In view of the occurrence of recent natural disasters—similar to the volcano eruption of 1980, the earthquake of 1989, and the hurricane of 1989—droughts, floods, freezes, tornadoes, and other catastrophes which resulted in billions of dollars in damages, and in an effort to restore the economy and to alleviate the effects of the disasters, an additional $1,750,000,000, to remain available until expended, is hereby made available for losses associated with 1990 crops as authorized by Public Law 101-624, and for losses associated with 1991 and 1992 crops under the same terms and conditions: *Provided,* That $995,000,000 of this amount is available for payments to producers for losses on either 1990 or 1991 crops, at the producer's option: *Provided further,* That the remaining $755,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: *Provided further,* That this $755,000,000 shall be available for crop losses for one of the years 1990, 1991 or 1992, at the producer's option, but shall not be for a year for which disaster payments were previously provided to the producer: *Provided further,* That $100,000,000 of the $755,000,000 is set aside for program crops planted in 1991 for harvest in 1992: *Provided further,* That, consistent with the amounts made available above, emergency loans made with respect to damage to an annual crop planted for harvest in 1991 under subtitle C of the Consolidated Farm and Rural Development Act shall be made available without regard to the purchase of crop insurance under the Federal Crop Insurance Act by the producer who requests such a loan.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food and Rural Resources for potato disease detection, control, prevention, eradication and related activities including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine and any unobligated balances of funds previously appropriated or earmarked for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

TITLE II—GENERAL PROVISIONS

SEC. 200. FINDING OF DIRE EMERGENCY CONDITIONS.—The Congress finds that—

(a) the President has designated and requested the Congress to designate over $1,140,000,000 in 1991 international assistance funds to meet emergency needs in foreign lands;

(b) natural disasters (including floods, droughts, tornadoes, hurricanes, earthquakes, freezes, and typhoons) have occurred in the United States and its territories causing loss of life, human suffering, loss of income, and property loss or damage with dire emergency financial situations;

(c) since October 1990, there have been 44 presidentially-declared disasters and 89 disasters declared by the Secretary of Agriculture affecting every area of the Nation in almost every State for which Federal funds are not available to meet emergency needs, resulting in calls for the National Guard and other assistance;

(d) as a consequence of these disasters, millions of acres of land are or were under water, millions of acres of farm land are not able to be planted, and highways, dams, roads, and bridges have not been repaired. Many of the people in communities, counties, States, and many private businesses have been dangerously affected, and the local authorities in many cases are unable to meet the financial costs; and

(e) the combination of the effects of these conditions and the current recession constitutes a dire emergency situation (8,582,000 people are unemployed, total employment has declined by over 1,400,000 jobs in the last year, over 7,500 businesses are failing each month, and foreign purchases of United States land and companies are increasing) which will, if not corrected by increased production, necessitate the need for a Job Creation Bill similar to what was enacted in 1983.

SEC. 201. No part of any appropriation contained in this joint resolution shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

CONGRESSIONAL DESIGNATION OF EMERGENCY

SEC. 202. Although the President has only designated portions of the funds in this joint resolution pertaining to the incremental costs of Desert Shield/Desert Storm and certain Federal Emergency Management Agency costs as "emergency requirements", the Congress believes that the same or higher priority should be given to helping American people recover from natural disasters and other emergency situations as has been given to foreign aid "emergency" needs. The Congress therefore designates all funds in Titles I and II of this joint resolution as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

RESTRICTIONS ON ASSISTANCE FOR KENYA

SEC. 203. (a) RESTRICTIONS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be made available for Kenya unless the President

determines, and so certifies to the Congress, that the Government of Kenya—

(1) has released all political detainees and has ended the prosecution of individuals for the peaceful expression of their political beliefs;

(2) has ceased the physical abuse or mistreatment of prisoners;

(3) has restored judicial independence;

(4) has taken significant steps toward respecting human rights and fundamental freedoms, including the freedom of thought, conscience, belief, expression, and the freedom to advocate the establishment of political parties and organizations; and

(5) has implemented the principle of freedom of movement, including the right of all citizens of Kenya to leave and return to their country.

(b) PROHIBITION.—

(1) LIMITATION ON NEW PROJECT ASSISTANCE.—During fiscal year 1992, funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 that are provided for assistance to the Government of Kenya for new projects shall be made available only for new projects—

(A) that promote basic human needs, directly address poverty, enhance employment generation, and address environmental concerns; or

(B) to improve the performance of democratic institutions, or otherwise promote the objectives being sought in the certification required by subsection (a).

(2) CONGRESSIONAL NOTIFICATION.—During fiscal year 1992, none of the funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of the Foreign Assistance Act of 1961 shall be obligated unless the Committees on Appropriations are notified at least 15 days in advance in accordance with the regular notification procedures of those Committees.

(3) APPLICABILITY.—The provisions of paragraphs (1) and (2) of this subsection shall cease to apply 30 days after the certification described in subsection (a) is made to the Congress.

(c) DATE OF AVAILABILITY OF FUNDS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be obligated or expended for Kenya until 30 days after the certification described in subsection (a) is made to the Congress.

SEC. 204. SENSE OF THE SENATE REGARDING UNITED STATES RECOGNITION OF UKRAINIAN INDEPENDENCE.

(a) FINDINGS.—The Senate makes the following findings:

(1) On August 24, 1991, the democratically elected Ukrainian parliament declared Ukrainian independence and the creation of an independent, democratic state—Ukraine.

(2) That declaration reflects the desire of the people of Ukraine for freedom and independence following long years of communist oppression, collectivization, and centralization.

(3) On December 1, 1991, a republic-wide referendum will be held in Ukraine to confirm the August 24, 1991, declaration of independence.

(4) Ukraine is pursuing a peaceful and democratic path to independence and has pledged to comply with the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

(5) Ukraine and Russia signed an agreement on August 29, 1991, recognizing each other's rights to state independence and affirming each other's territorial integrity.

(6) Ukraine, a nation of 52,000,000 people, with its own distinct linguistic, cultural, and religious traditions, is determined to take its place among the family of free and democratic nations of the world.

(7) The Congress has traditionally supported the rights of people to peaceful and democratic self-determination.

(8) As recognized in Article VIII of the Helsinki Final Act of the Conference on Security and Cooperation in Europe, "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development".

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President—

(1) should recognize Ukraine's independence and undertake steps toward the establishment of full diplomatic relations with Ukraine should the December 1, 1991, referendum confirm Ukrainian parliament's independence declaration; and

(2) should use United States assistance, trade, and other programs to support the Government of Ukraine and encourage the further development of democracy and a free market in Ukraine.

SEC. 205. The appropriation entitled "Fishing Vessel Obligations Guarantees" in Public Law 102-140 is amended by striking the sum "$10,000,000" and inserting in lieu thereof the sum "$24,000,000". *Ante*, p. 801.

SEC. 206. From the funds made available for Land Acquisition of the United States Fish and Wildlife Service in the fiscal year 1992 Department of the Interior and Related Agencies Appropriations Act (Public Law 102-154), $965,000 is hereby appropriated by transfer to the Resource Management account of the United States Fish and Wildlife Service.

SEC. 207. Notwithstanding any other provision of law, amounts received by the United States for restitution and future restoration (including replacement or acquisition of equivalent natural resources) in settlement of United States v. Exxon Corporation and Exxon Shipping Company (Case No. A90-015-1CR and 2CR), hereinafter the Plea Agreement, United States v. Exxon Corporation et al. (Civil No. A91-082 CIV) and State of Alaska v. Exxon Corporation et al. (Civil No. A91-083 CIV), hereinafter referred to together as the Agreement and Consent Decree, as approved by the United States District Court for the District of Alaska on October 8, 1991, in fiscal year 1992 and thereafter shall be deposited into the Natural Resource Damage Assessment and Restoration Fund established by Public Law 102-154. Such amounts, and the interest accruing thereon, shall be available to the Federal Trustees identified in the Agreement and Consent Decree for necessary expenses for assessment and restoration of areas affected by the discharge of oil from the T/V EXXON VALDEZ on March 23-24, 1989, for fiscal year 1992 and thereafter in accordance with the Plea Agreement and the Agreement and Consent Decree: *Provided,* That such amounts (and 43 USC 1474b note.

accrued interest) shall remain available until expended: *Provided further,* That such amounts may be transferred to any account, as authorized by section 311(f)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(f)(5)), to carry out the provisions of the Plea Agreement and the Agreement and Consent Decree: *Provided further,* That herein and hereafter any amounts deposited into the Natural Resource Damage Assessment and Restoration Fund shall be invested by the Secretary of the Treasury in interest bearing obligations of the United States to the extent such amounts are not, in his judgment, required to meet current withdrawals: *Provided further,* That interest earned by such investments shall be available for obligation without further appropriation: *Provided further,* That, for fiscal year 1992, the Federal Trustees shall provide written notification of the proposed transfer of such amounts to the Appropriations Committees of the House of Representatives and the Senate thirty days prior to the actual transfer of such amounts: *Provided further,* That, for fiscal year 1993 and thereafter, the Federal Trustees shall submit in the President's Budget for each fiscal year the proposed use of such amounts.

WAIVER OF CERTAIN RECOVERY REQUIREMENTS

SEC. 208. Section 2713(d) of the Public Health Service Act (42 U.S.C. 300aaa-12(d)) is amended by striking "(a)(2)" and inserting "(a)".

SEC. 209. (a) Section 307E of the Legislative Branch Appropriations Act, 1989 (40 U.S.C. 216c), is amended to read as follows:

"SEC. 307E. (a) The Architect of the Capitol, subject to the direction of the Joint Committee on the Library, is authorized to—

"(1) construct a National Garden demonstrating the diversity of plans, including the rose, our national flower, to be located between Maryland and Independence Avenues, S.W., and extending from the Botanic Garden Conservatory to Third Streets, S.W., in the District of Columbia; and

"(2) solicit, receive, accept, and hold gifts, including money, plant material, and other property, on behalf of the Botanic Garden, and to dispose of, utilize, obligate, expend, disburse, and administer such gifts for the benefit of the Botanic Garden, including among other things, the carrying out of any programs, duties, or functions of the Botanic Garden, and for constructing, equipping, and maintaining the National Garden referred to in paragraph (1).

"(b)(1) Gifts or bequests of money under subsection (a)(2) shall, when received by the Architect, be deposited with the Treasurer of the United States, who shall credit these deposits as offsetting collections to an account entitled 'Botanic Garden, Gifts and Donations'. The gifts or bequests described under subsection (a)(2) shall be accepted only in the total amount provided in appropriations Acts.

"(2) Receipts, obligations, and expenditures of funds under this section shall be included in annual estimates submitted by the Architect for the operation and maintenance of the Botanic Garden and such funds shall be expended by the Architect, without regard to section 3709 of the Revised Statutes, for the purposes of this section after approval in appropriation Acts. All such sums shall remain available until expended, without fiscal year limitation.

"(c)(1) In carrying out this section and his duties, the Architect of the Capitol may accept personal services, including educationally

related work assignments for students in nonpay status, if the service is to be rendered without compensation.

"(2) No person shall be permitted to donate his or her personal services under this section unless such person has first agreed, in writing, to waive any and all claims against the United States arising out of or in connection with such services, other than a claim under the provisions of chapter 81 of title 5, United States Code.

"(3) No person donating personal services under this section shall be considered an employee of the United States for any purpose other than for purposes of chapter 81 of title 5, United States Code.

"(4) In no case shall the acceptance of personal services under this section result in the reduction of pay or displacement of any employee of the Botanic Garden.

"(d) Any gift accepted by the Architect of the Capitol under this section shall be considered a gift to the United States for purposes of income, estate, and gift tax laws of the United States.".

(b) Pursuant to section 307E of the Legislative Branch Appropriations Act, 1989, not more than $2,000,000 shall be accepted and not more than $2,000,000 of the amounts accepted shall be available for obligation by the Architect for preparation of working drawings, specifications, and cost estimates for renovation of the Conservatory of the Botanic Garden. 40 USC 216c note.

SEC. 210. (a) The caption for section 713 of title 18, United States Code, is amended as follows:

"§ 713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seal of the United States Senate.".

(b) Subsection (a) of section 713 of title 18, United States Code, is amended by inserting "or the seal of the United States Senate," after "Vice President of the United States,".

(c) Subsection (c) of section 713 of title 18, United States Code, is—

(1) amended to read as follows:

"A violation of the provisions of this section may be enjoined at the suit of the Attorney General,

"(1) in the case of the great seal of the United States and the seals of the President and Vice President, upon complaint by any authorized representative of any department or agency of the United States; and

"(2) in the case of the seal of the United States Senate, upon complaint by the Secretary of the Senate."; and

(2) redesignated as subsection (d).

(d) Section 713 of title 18, United States Code, is amended by inserting after subsection (b) the following new subsection:

"(c) Whoever, except as directed by the United States Senate, or the Secretary of the Senate on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Senate, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined not more than $250 or imprisoned not more than six months, or both.".

(e) The table of sections for chapter 33 of title 18, United States Code, is amended by striking the item for section 713 and inserting the following:

"713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seal of the United States Senate.".

SEC. 211. Section 311(i) of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 59e(i)) is amended by striking out "with respect to sessions of Congress beginning with the second session of the One Hundred Second Congress," and inserting in lieu thereof "beginning on May 1, 1992,".

Nevada.

SEC. 212. The Secretary of Defense shall continue the construction of a composite medical replacement facility located at Nellis Air Force Base, Nevada, as authorized in the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189) and the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101-510) and as provided for in the Military Construction Appropriations Act, 1990 (Public Law 101-148) and the Military Construction Appropriations Act, 1991 (Public Law 101-519).

SEC. 213. Unobligated funds in the amount of $990,000 authorized and appropriated under Public Law 102-143 for bridge safety repairs in Vermont shall be made available as follows—$350,000 to the City of Barre for the Granite Street Bridge, $350,000 to the City of Montpelier for the Bailey Avenue Bridge, $90,000 to the town of Brandon for the replacement of the Dean Bridge, and $90,000 for the Town of Williston and $110,000 for the Town of Essex for the North Williston Road Bridge—without regard to whether or not such expenses are incurred in accordance with sections 101, 106, 110, and 120 of title 23 of the United States Code.

SEC. 214. Section 4001(a)(14) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)(14)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by adding "and" at the end of subparagraph (B); and

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

"(C)(i) notwithstanding any other provision of this title, during any period in which an individual possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of an affected air carrier of which he was an accountable owner, whether through the ownership of voting securities, by contract, or otherwise, the affected air carrier shall be considered to be under common control not only with those persons described in subparagraph (B), but also with all related persons; and

"(ii) for purposes of this subparagraph, the term—

"(I) 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds a certificate of public convenience and necessity under section 401 of such Act for route number 147, as of November 12, 1991;

"(II) 'related person' means any person which was under common control (as determined under subparagraph (B)) with an affected air carrier on October 10, 1991, or any successor to such related person;

"(III) 'accountable owner' means any individual who on October 10, 1991, owned directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986 more than 50 percent of the total voting power of the stock of an affected air carrier;

"(IV) 'successor' means any person that acquires, directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986, more than 50 percent of the total voting power of the stock of a

related person, more than 50 percent of the total value of the securities (as defined in section 3(20) of this Act) of the related person, more than 50 percent of the total value of the assets of the related person, or any person into which such related person shall be merged or consolidated; and

"(V) 'individual' means a living human being;".

This joint resolution may be cited as the "Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of 'Operation Desert Shield/Desert Storm' Act of 1992".

Approved December 12, 1991.

LEGISLATIVE HISTORY—H.J. Res. 157 (H.R. 3543):

HOUSE REPORTS: Nos. 102-255 accompanying H.R. 3543 (Comm. on Appropriations) and 102-394 (Comm. of Conference).
SENATE REPORTS: No. 102-216 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 137 (1991):
Feb. 28, considered and passed House.
Oct. 29, H.R. 3543 considered and passed House.
Nov. 22, H.J. Res. 157 considered and passed Senate, amended.
Nov. 26, House agreed to conference report.
Nov. 27, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 27 (1991):
Dec. 12, Presidential statement.